

SAN FRANCISCO PUBLIC LIBRARY



3 1223 06835 6246



San Francisco Public Library

FORMATION CENTER
PUBLIC LIBRARY
STREET
SAN FRANCISCO, CA 94102

REFERENCE BOOK

Not to be taken from the Library

*Closed
Stacks*

HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA



DOCUMENTS DEPT

Jan 27

RECEIVED
PUBLISHED

STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, JANUARY 17, 2007
1:32 P.M.

1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

3
4
5
6 HEARING

7
8
9
10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

13
14
15 WEDNESDAY, JANUARY 17, 2007

16 1:32 P.M.

17
18
19
20
21
22
23
24 Reported by:

25
26 Evelyn J. Mizak
27 Shorthand Reporter
28

APPEARANCES

MEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR ROY ASHBURN, Vice Chair

SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

SUSIE SWATT, Consultant to SENATOR ASHBURN

DAN SAVAGE, Consultant to SENATOR CEDILLO

CHRIS BURNS, Consultant to SENATOR DUTTON

BILL MABIE, Consultant to SENATOR PADILLA

ALSO PRESENT

ROSARIO MARIN, Secretary
State and Consumer Services Agency

SENATOR RON CALDERON

ASSEMBLYMAN CHUCK CALDERON

JOSE MEJIA
California State Council of Laborers

BILL GARCIA
American GI Forum
Macular Degeneration Association

KURT COOKNICK
The American Institute of Architects, California Council

BOB RAYMER
California Building Industry Association

1 MATTHEW WHEELER

California Building Officials

2 JAMES BRADY, Vice Chair

3 State Black Chamber of Commerce, Sacramento

4 Small Business Council

5 NANCY ZARENDA, Director and Founder

Spanish Language Academy, Sacramento

6 HOLLYNN D'LIL

7 Coalition of Disability Access Professionals

8 RICHARD SKAFF, Executive Director

9 Designing Accessible Communities

10 JEAN RIKER

DLA

11 DAVID P. LOPEZ, President

12 National Hispanic University, San Jose, California

13 RANDAL J. HERNANDEZ, Member

14 California Community Colleges

Board of Governors

INDEX

	<u>Page</u>
Proceedings	1
<u>Governor's Appointees:</u>	
ROSARIO MARIN, Secretary	
State and Consumer Services Agency	1
Introduction and Support by	
SENATOR RON CALDERON	1
ASSEMBLYMAN CHUCK CALDERON	3
Opening Statement	4
Questions by CHAIRMAN PERATA re:	
Necessity for Weekend Janitorial	
Crews in Capitol Building	7
Need for Better Coordination of	
Capitol Functions	7
Plan to Deal with Large Numbers of	
State Workers Planning to Retire Soon	8
Sunsetting of Bureau for Private	
Postsecondary and Vocational Education	9
Proposal in Budget	11
Need for Backup Plan	11
Questions by SENATOR PADILLA re:	
Goals to be Achieved in Governor's	
Climate Action Change Plan	13
Any Reports Available to Show Which	
Buildings Were Improved and Benefits	15
Reduction of Energy Consumption	
Level from 2004	15

1	Benchmarking of All State Buildings	16
2	Ability to Quantify Energy Level	
3	Reductions	16
4	Is State on Track for 2010 Goals, then	
5	2020 Goals	18
6	State Architect's Issuance of New	
7	Green Standards for School Construction	19
8	Governor's Executive Order Does Not	
9	Reference Water Usage Levels, Water	
10	Conservation, or Storm Water Runoff	
11	Protection	20
12	<u>Witnesses in Support:</u>	
13	JOSE MEJIA	
14	California State Council of Laborers	22
15	BILL GARCIA	
16	American GI Forum	
17	Macular Degeneration Association	22
18	KURT COOKNICK	
19	American Institute of Architects	24
20	BOB RAYMER	
21	California Building Industry Association	25
22	MATT WHEELER	
23	California Building Officials	26
24	JAMES BRADY, Vice Chair	
25	Black Chamber of Commerce, Sacramento	
26	State Small Business Council	26
27	NANCY ZARENDA, Director and Founder	
28	Spanish Language Academy, Sacramento	27
	HOLLYNN D'LIL	
	Coalition of Disability Access Professionals	28
	RICHARD SKAFF, Executive Director	
	Designing Accessible Communities	31

1	JEAN RIKER	
2	Disability Community	35
3	DAVID LOPEZ, President	
4	National Hispanic University, San Jose	35
5	RANDAL HERNANDEZ	
6	Bank of America	36
7	Questions by SENATOR CEDILLO re:	
8	Challenges in California with Many	
9	Different Languages	37
10	No Distinction with Immigration	
11	Status of Constituents	38
12	Statements of Gratitude and Thanks	
13	By SENATOR CEDILLO	39
14	Statements by CHAIRMAN PERATA re:	
15	Need for Clear Indication from	
16	Governor's Office on Dealing with	
17	Sunset Issue	41
18	Request that Secretary Come Back to	
19	Committee Next Week	42
20	Motion to Confirm	39
21	Committee Action	43
22	RANDAL J. HERNANDEZ Member	
23	California Community Colleges	
24	Board of Governors ..	43
25	Praise for NETTIE SABELHAUS	43
26	Opening Statement	44
27	Questions by CHAIRMAN PERATA re:	
28	Use of the \$50 Budgeted for Career	
	Technical Education and Evaluation	45

1	Need for Nexus between Employers and	
2	Career Colleges	47
3	High Cost of Text Books	48
4	Outreach to Students about Availability	
5	Of Financial Aid	49
6	Questions by SENATOR ASHBURN re:	
7	Need for More Vocational Education in	
8	Health Care Professions	50
9	Faculty Unions Will Not Allow	
10	Qualified Practitioners to Teach in	
11	Community Colleges	52
12	Need to Blast through Barriers	52
13	Look at Text Book Rental Program at	
14	Taft College	53
15	Questions by SENATOR CEDILLO re:	
16	Profound Need for Training Health	
17	Care Professionals	54
18	Need to Make Strategies to	
19	Eliminate Barriers	55
20	Financial Aid for Undocumented Students	55
21	Questions by SENATOR DUTTON re:	
22	Scope of Board's Actual Control over	
23	Community College Districts	56
24	Expense of Health Science Programs	58
25	Prerequisite Requirements Differ	
26	Between Colleges	59
27	Questions by SENATOR PADILLA re:	
28	Need to be Strong Advocate for System	60

1	Any Specific Proposals to Chance	
2	Governance Structure	62
3	Written Responses regarding Major	
4	Challenges Facing Community Colleges	62
5	Proposals to Improve Basic Skills	
6	Teachings	65
7	Low Statistics of Success Rates	66
8	Specific Initiatives in Strategic Plan	66
9	Possibility of Stabilizing Student Fees	68
10	Lack of Outreach Funding	69
11	Willingness to Ask Governor to	
12	Reinstate Outreach Funding in Budget	70
13	Systems for Metrics and Accountability on	
14	How Monies Were Used for Various Programs	71
15	Full-time Versus Part-time Faculty	72
16	Invitation to be Briefed on Strategic	
17	Plan	73
18	Addressing Capital Program for System	73
19	Need to Further Assist AB 540 Students	74
20	Motion to Confirm	74
21	Statements by CHAIRMAN PERATA re:	
22	Need to Take Advantage of Federal Aid	
23	Monies for Students	75
24	Committee Action	76
25	Termination of Proceedings	76
26	Certificate of Reporter	77

2 Written Responses to Committee Questions
3 By Appointees, as well as Written
4 Statements by Appointees Not Required to
5 Appear: Members of the Acupuncture Board:
6 ADAM T. BURKE, Ph.D, PEICHIN L. CHENG,
7 KENNY G. CHERNG, M.D., and STEVEN TAN, M.D.;
8 Members of the California Veterans Board:
9 JAKE I. ALARID, NORA A. ASTAFAN, and COLIN
10 SHADELL
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN PERATA: We are going to begin as a subcommittee in deference to everyone who's here.

Senator Calderon, would you like to sign in and sign in your guest?

Well mannered Montebello guys. This is very nice.

[Laughter.]

CHAIRMAN PERATA: Senator, you may.

SENATOR CALDERON: Thank you, Mr. Chair and Members.

It is my pleasure to introduce to you today Rosario Marin, who is up before you for confirmation as Secretary of the State and Consumer Affairs Agency.

Let me tell you a little bit about her and why I think she's so qualified for the job. She's also a member of the Governor's Cabinet. As Secretary, she oversees the State of California's civil rights enforcement, consumer protection, and the licenses of 1.2 million Californians in more than 230 different professions.

If that's not enough, the Agency also handles procurement of more than \$9 billion worth of goods and services, the management and development of the state real estate portfolio, oversight of two employee pension funds, in addition the collection of state taxes and programs managing the hiring of state employees, also the administration of two museums and Exposition Park in Los Angeles.

1 Secretary Marin also currently Chairs the
2 Building Standards Commission, the Victims Compensation and
3 Government Claims Board, and the government's Green Action Team.

4 As a mother of three, Rosario is a dedicated
5 public official and consummate advocate for the disadvantaged.
6 She has held numerous leadership positions at the local, state,
7 and national levels, and is both the former Mayor of Huntington
8 Park in Los Angeles County -- which I'm proud to say is part of
9 my Senate district, I'm proud to have her from my area
10 representing the state -- where she makes her home, along with
11 having the experience as the 41st Treasurer of the United States
12 under President George W. Bush.

13 Mr. Chair and Members, it is my esteemed pleasure
14 to present to you Secretary Rosario Marin.

15 CHAIRMAN PERATA: Thank you, Senator.

16 Welcome. It seems like we did this recently;
17 didn't we?

18 MS. MARIN: Yes, we did, Senator. It is my
19 pleasure to be here with you.

20 Thank you so very much, Senator Calderon, for
21 that kind introduction. I thought your brother was also going
22 to be here.

23 CHAIRMAN PERATA: He's unfamiliar with the
24 building.

25 [Laughter.]

26 MS. MARIN: He used to be the Senator when I was
27 on the council of my area, so now he's the Assembly Member for
28 the district contiguous to mine.

1 But I am delighted to be here with you again.
2 Before I begin with my statement, if I may, I'd like to
3 introduce the two people that are here from Huntington Park.

4 CHAIRMAN PERATA: Sure.

5 MS. MARIN: The love of my life my husband, Alex
6 Marin. And the wind beneath my wings, my son Eric Marin who is
7 here.

8 CHAIRMAN PERATA: Hi, Eric, welcome.

9 MS. MARIN: My other the two children are taking
10 exams today and they couldn't be here with me.

11 Senators --

12 CHAIRMAN PERATA: This is not good, that they
13 would rather take an exam than be here is not good.

14 [Laughter.]

15 MS. MARIN: Well, one is a senior in high school,
16 and the other one is just starting his first year at Loyola High
17 School, so it's very important to him, and I agree with that
18 decision.

19 SENATOR CEDILLO: Mr. Chairman, Mr. Calderon has
20 entered the room.

21 CHAIRMAN PERATA: Oh, Chuck.

22 MS. MARIN: Senator! I mean Assembly Member.

23 CHAIRMAN PERATA: Once a Senator, always a
24 Senator.

25 ASSEMBLYMAN CALDERON: No, no. I'm keeping that
26 title. I earned it, and I'm keeping it.

27 [Laughter.]

28 ASSEMBLYMAN CALDERON: I just wanted to be here

1 to testify on behalf of confirmation.

2 I've known Rosario for years, represented
3 Huntington Park. I met her first as an activist for the
4 disadvantaged. And I always wondered why this Republican was
5 always working on my campaign, but she was always effective.
6 She was on the council. We always worked together.

7 I wanted to recommend her for your consideration
8 because I find her to be someone who will put individual
9 concerns and policy concerns over partisan concerns. And
10 sometimes she's been slammed for it, like we all have, but at
11 least I know that she's oriented towards service.

12 She has a very impressive record. And as
13 Republicans go, I just wanted to tell you, she's okay.

14 [Laughter.]

15 ASSEMBLYMAN CALDERON: Anyway, I just wanted to
16 let you know what my feelings were, and I recommend her to you.
17 I hope this Committee recommends confirmation.

18 CHAIRMAN PERATA: Thank you.

19 Post-partisanship hasn't gotten across the aisle
20 yet.

21 MS. MARIN: Senators, in a state with 37 million
22 people, it is an incredible privilege to be considered for
23 Senate confirmation for the third time in my life. Words fail
24 to describe how humbled I am to go through this process once
25 more, for only in America could someone like me, who came to
26 this country without even speaking English, find herself being
27 considered to lead one of the largest entities in state
28 government.

1 I have served almost a year in this agency,
2 which I describe as the oil that greases the wheels of
3 government. Without it, government cannot operate. I fully
4 understand in role and functions of this very eclectic agency
5 and its now 15 departments.

6 From the moment I started, and following the lead
7 of Secretary Aguiar, I wanted to find ways to make it more
8 responsive, more effective, and greener. We have been have very
9 successful in making government more accessible and more
10 responsive. We have extraordinarily reduced from months to days
11 the amount of time it takes a small business to become certified
12 to do business with the state. Even more importantly, we
13 anticipate on-line certification by the end of this month.

14 We implemented on-line filing at the Victims
15 Compensation Board and have seen dramatic increases of on-line
16 filing at the Franchise Tax Board.

17 Our call centers at the Department of Consumer
18 Affairs and the Fair Employment and Housing Department exemplify
19 customer service.

20 For projects that have been stalled, we have been
21 able to drive into completion, like the next generation of
22 transmission systems to support the Smog Check Program and the
23 greening of our state buildings is now on track to achieve the
24 25 percent reduction of energy consumption by 2015.

25 We even received the first and highest Platinum
26 Certification from the U.S. Green Building Council's Leadership
27 in Energy and Environmental Design in one of our state
28 buildings. In addition, by the end of the month, we are poised

1 to update the California Building Codes for the first time in
2 ten years.

3 I know that there are incredible opportunities
4 and significant challenges ahead of us. I have specific goals
5 in making government more responsive to all Californians. And
6 as Chair of the Green Action Team, I am working hard to make our
7 government greener.

8 But these goals will fall short unless we have a
9 strong civil service workforce. That is why we are working
10 diligently on succession planning. I am very concerned that
11 every year that goes by without a specific plan to recruit,
12 retain, and reward our state workforce is a year that only
13 exacerbates the problem of a large portion of our personnel
14 retiring in the next five years.

15 We are working with the Department of Finance,
16 the State Personnel Board, and the Department of Personnel
17 Administration to develop the solutions that have eluded us so
18 far, and present to the Legislature a set of proposals for
19 action.

20 I have been extremely honored to have been
21 appointed to this position by Governor Schwarzenegger, and
22 should I have the privilege to be confirmed by the Senate, I
23 will serve the people of the State of California with honesty,
24 integrity, and pride.

25 I intend to work with both houses of the
26 Legislature to ensure that our government is responsive,
27 effective, efficient, and transparent.

28 Now, your turn to ask questions.

1 CHAIRMAN PERATA: Thank you.

2 I have three areas that I want to go into with
3 you. The first is, this building is a museum. It's a public
4 building. It's open on weekends.

5 There have been a series of complaints over the
6 years that weekends in particular, in this building, the
7 restrooms are not being maintained. It came really to light
8 with the California National Marathon.

9 Do we have weekend crews? If not, we ought to.

10 MS. MARIN: We now have.

11 You know, Senator, I was unaware. And sometimes
12 I tell my staff, unless I can -- I am aware of a problem, I
13 cannot fix it.

14 CHAIRMAN PERATA: Sure.

15 MS. MARIN: I became aware over the week, last
16 week, that there was a problem. And we have instituted changes
17 at the Department of General Services. There is no excuse.

18 We should have the state kept clean. We should
19 be able to do that, and we rearranged our work crews, groups,
20 and we are increasing that for the days when we know for a fact
21 that there will be more activity than planned.

22 CHAIRMAN PERATA: In a related matter, last week
23 or two weeks ago, when we had the festival of inauguration
24 events, there was a rather substantial tent put up here with
25 steel and cement. No one knew about that. People who were
26 handicapped, disabled, daydreamers walked out there and there
27 was no access.

28 And there just needs to be better coordination

1 with that. And as best I can tell, that was sponsored by the
2 Inaugural Committee. They may have just not known, but you get
3 the point.

4 MS. MARIN: The same thing, there is no excuse
5 for that. There is a protocol that needs to be followed,
6 Senator. There is -- we had a meeting regarding this issue, and
7 to the degree that the Department of General Services is aware
8 of any extra activity, you should be notified, the Joint Rules
9 Committee should be notified immediately.

10 CHAIRMAN PERATA: Good.

11 You mentioned the state workforce, and there's
12 been a recurring theme, at least since I've been Chair of this
13 Committee, that we have an overwhelming majority of our state
14 workers who are eligible for retirement.

15 You referenced that you are working to develop a
16 plan. Have you got a target date?

17 MS. MARIN: Our target right now, we put together
18 a working group with four different departments, the Department
19 of Finance, the Department of Personnel Administration, the
20 State Personnel Board, and my agency.

21 The State Personnel Board has had, and actually
22 they had a retreat at the beginning of December to specifically
23 deal with their five-year plan.

24 We understand, Senator, that you do not want a
25 piecemeal -- you know, a little token here and a little token
26 there.

27 We want to present to you a set of proposals that
28 will deal with the recruitment, the retention, and the rewarding

1 of our state workforce.

2 It is my hope, Senator, that we can present
3 something to you, so that you can take some action this
4 legislative year.

5 CHAIRMAN PERATA: This year.

6 MS. MARIN: Yes.

7 CHAIRMAN PERATA: All right, I'll make a mental
8 note of that.

9 The last area, and this is really beyond timely
10 because it involves the Consumer Affairs Bureau for Private
11 Postsecondary and Vocational Ed.

12 As you know, because the Governor vetoed a bill
13 to extend the sunset, you close down at the end of the fiscal
14 year.

15 It's a great concern because of the sheer volume
16 of people. You've got 400,000 students in 1500 for-profit
17 schools. And I didn't realize the number, over \$5 billion in
18 annual tuition is transacted.

19 The concerns are as follows. When it sunsets,
20 you're responsible for a six-month blackout period. And there
21 are already claims for refunds, and there's complaints that are
22 not managed under the current situation.

23 The question is, what are you going to do?

24 MS. MARIN: I was sharing that this is one of the
25 things that has really concerned me from day one, when I found
26 out that we have this very significant challenge ahead of us.

27 It is my hope, Senator, and we have put some
28 proposed -- legislative proposal. It's in Legislative Counsel

1 right now.

2 It is my hope that we will be able to work with
3 the Legislature, with the Senate and the Assembly, to ensure
4 that we have a bill that will be signed by the Governor, and so
5 that the sunset comes, but the new program begins. That would
6 be my absolute desire.

7 CHAIRMAN PERATA: Let me just stop and rain on
8 your parade.

9 We have been told by Legislative Counsel that we
10 cannot, because we are effectively creating a new one. We
11 cannot do that urgency legislation.

12 So, it appears to us that you're going to have a
13 six-month period where you're just flat blacked out.

14 And there were two bills last year. Neither one
15 of them had consensus, so that's why we sent the extension. At
16 that time the veto message said: Don't worry; we're going to
17 deal with it.

18 Now there's a hole, and I do not believe it will
19 be legally constitutionally possible for you to do what you just
20 said.

21 So, on that assumption, what do you do?

22 MS. MARIN: Most regrettably, Senator, we had
23 this same situation 10 years ago. And it just so happened --

24 CHAIRMAN PERATA: We do this every ten years.

25 MS. MARIN: It just so happened that we were
26 exactly in the same situation, and we were able to, upon the
27 sunset, create the new bureau.

28 So we, in fact, did what it is speculated that

1 cannot be done. It was done with the blessings of both the
2 Senate and the Assembly, and at that time, that Governor.

3 So, we would be able to do, hopefully, it would
4 be my desire, and certainly my hope that we would be able to
5 work it out.

6 CHAIRMAN PERATA: I see you jumped right up.

7 SENATOR PADILLA: Pardon the interruption, but
8 what you're proposing, is that reflected in the budget?

9 MS. MARIN: Yes.

10 CHAIRMAN PERATA: And that's why that's in the
11 budget?

12 MS. MARIN: Yes.

13 CHAIRMAN PERATA: Well, I would encourage you.
14 If we have a recommendation from Legislative Counsel that says
15 that's not possible, what I would do is have your counsel talk
16 to them, and maybe cite what happened and why they think it's
17 different than before.

18 Because, assuming that you go forward and
19 somebody challenges it, and we don't have a backup plan, we're
20 in a world of hurt.

21 MS. MARIN: I certainly agree. We do have a
22 backup plan, Senator.

23 One of the things that I have actually done, I
24 communicated on Friday with Assistant Secretary at the U.S.
25 Department of Education, James Manning, and we talked about the
26 situation that we're facing right now. Certainly it is his hope
27 as well that we're able to do whatever we did 10 years ago.

28 The situation, while difficult, is not as grim as

1 we had originally anticipated.

2 But regardless, we need to find a solution,
3 Senator. And it will be my utmost desire to ensure that we can
4 work both -- with both parties, with both houses, to ensure that
5 consumers are protected, students as consumers are protected in
6 the fairest way possible.

7 CHAIRMAN PERATA: You're not going to have any
8 problem working with us. I just want to make sure.

9 I don't want to be looking back at this and
10 saying, "Damn it. We had an opportunity."

11 This has nothing to do with your confirmation;
12 this is your job. That's why I'm talking to you. And it's just
13 fortuitous that you're here right now, because otherwise I'd
14 have to go find out where your office was. Fred never stays
15 still long enough so I could find him.

16 That's something that, what I'd like you to do is
17 to make a point of, in the intervening time between now and
18 confirmation, I'd like to know. There's lots of people who
19 couldn't sit for exams. This could be a catastrophe.

20 And it's not that I don't trust the lawyers, but
21 you know, you get two lawyers together, you get nine opinions.
22 If we have seven of them, that'd be cool; if it's 7-2, that's a
23 good number.

24 But I remember having gone through this, and
25 Kevin Murray was in the Senate at the time, and he believed that
26 it was his constituents, i.e., African Americans were really
27 getting hosed by a lot of these fly-by-night outfits. So, he
28 didn't feel the Figueroa bill was tough enough, and then there

1 was controversy around the other bill.

2 So, it's in everybody's interest, and I
3 appreciate that you understand this --

4 MS. MARIN: I do, Senator.

5 CHAIRMAN PERATA: -- and we resolve this.

6 Did you want to talk about green? Anything else
7 on this point? I'll come back to it on the close.

8 SENATOR PADILLA: I have questions in a couple of
9 areas. Let's start with green buildings, because we talked
10 about this in my office the other day.

11 I know that the administration has not only
12 articulated an interest but a priority to reduce greenhouse
13 gases and to green our buildings, improve their energy
14 efficiency, water efficiency both in new construction, new
15 buildings that are being erected, and also when it comes to
16 major renovations of existing state buildings.

17 And it's music to my ears. When I was on the
18 city council, we took the lead on the Lake View Terrace Library
19 as one example, the only library in the world that enjoys a
20 Platinum Certification from the U.S. Green Building Council.

21 And I don't know the specifics of the component
22 of last year's greenhouse gas bill, the Climate Action Change
23 Plan, where the Governor proposed that the state government take
24 the lead on some of this with measurable goals to be achieved.

25 Do you want to share what those goals are?

26 MS. MARIN: I don't recall them specifically,
27 Senator, right now, but I can tell you that we do have a
28 specific portion. It is a percentage of the reductions are

1 attributed to the Department of General Services greening state
2 government.

3 SENATOR PADILLA: And this note just handed to
4 me, half a million metric tons of CO2 from green buildings by
5 2010, and 1.8 million metric tons by 2020.

6 I guess the real question is, what's our plan to
7 achieve those? Are we on track as of today --

8 MS. MARIN: Yes, we are.

9 SENATOR PADILLA: -- for both?

10 MS. MARIN: Yes, we are.

11 SENATOR PADILLA: For both milestones?

12 MS. MARIN: We're on track on both.

13 One of the things that -- the Green Action Team
14 is composed of a number of different agencies and state
15 departments. Clearly, the Department of General Services takes
16 the lead on that. Roy McBrayer is the person that has staffed
17 that.

18 What we had to do is, first of all, assess
19 where -- what the state of every single building is, and where
20 we could get the biggest bang for our money, if you will.

21 We have now done that. We know which buildings
22 are targeted for retrocommissioning, you know, changing the
23 light bulbs, doing things to the window, changing the
24 thermostat, doing a number of things that are not as expensive
25 as they would be retrofitting.

26 But we have also targeted those buildings that
27 will necessitate to be retrofitted. And should we have --
28 should the directors of those departments be willing to invest

1 in that, the biggest reward for them is going to be, and the
2 Department of Finance has already agreed, that they will be able
3 to, once they pay off for this retrofitting, they will be able
4 to keep the savings then that they will achieve on their energy
5 consumption.

6 So, we believe that with that little caveat, with
7 that reward, that we will be able to be on track. And clearly,
8 you know, some of these are very heavy investments because we're
9 talking about significant --

10 SENATOR PADILLA: Is there a report that you can
11 make available to us that shows since the issuance of the order,
12 what buildings were improved, what improvements, what
13 environmental benefits you contribute --

14 MS. MARIN: I will be more than happy to share
15 what we have so far. I mean, it's public. I don't have it with
16 me, but I will be more than happy to present it, not just to
17 you, but to all the Members of the Committee, where we think --
18 what is it that we're doing and where we expect to be.

19 SENATOR PADILLA: Is there an aggregate number
20 for what the energy consumption level is today, and how it's
21 been reduced from 2004?

22 MS. MARIN: Every single building we have -- we
23 know exactly what energy consumption they have had. We've
24 already done that.

25 SENATOR PADILLA: By any chance do you happen to
26 know where the Van Nuys State Office Building ranks in all this?

27 [Laughter.]

28 MS. MARIN: No.

1 SENATOR PADILLA: What about the benchmarking of
2 all state buildings? That was supposed to be done by 2007, and
3 it's now barely 2007.

4 Benchmarking.

5 MS. MARIN: The benchmarking, that's what we did.

6 SENATOR PADILLA: But separate from the
7 benchmarking, you've actually done improvements on --

8 MS. MARIN: We are in the process of doing the
9 retrocommissioning. So, you had the benchmarking first. That's
10 the assessment.

11 Then when we assessed, we evaluated how much each
12 one is consuming, then we do the retrocommissioning.

13 SENATOR PADILLA: Maybe I didn't ask my first
14 question correctly.

15 You say the benchmarking is done? That's my
16 question right now.

17 MS. MARIN: Yes.

18 SENATOR PADILLA: The previous question was,
19 since the issuance of the order, improvements or modifications
20 to buildings, what can you summarize for us that can quantify
21 energy level reductions? Can you attribute that to specific
22 buildings?

23 MS. MARIN: I don't believe we have that yet.

24 SENATOR PADILLA: That's what I'm asking. Are we
25 on track for the 2010 milestone or not? And if you say we are,
26 then show us how we're on track by what buildings, what
27 modifications we've done, what energy reduction levels you
28 attribute to each of those buildings that show that, summing

1 them up, we're on track.

2 MS. MARIN: I can certainly give you what we have
3 done. I cannot tell you exactly myself, right now, but we have
4 the records. We did the benchmarking; we figured out where all
5 of them were.

6 We are going to start, and the PUC's helping us
7 with this, we are going to start now to figure out what would be
8 the reductions of the ones that have -- that will be
9 retrocommissioned.

10 SENATOR PADILLA: So, there haven't been either
11 any or not too many that have been retrofitted?

12 MS. MARIN: No. We haven't had retrofit.

13 SENATOR PADILLA: So, we're still, then my
14 assumption or interpretation would be, we're still at the same
15 energy consumption levels that we were back when this order was
16 issued, if not maybe even higher?

17 MS. MARIN: No. We should -- let me put it this
18 way. We should be seeing some reductions because some buildings
19 have already done some things, but not to the degree where we
20 have actually retrofitted any of the buildings. We should be
21 able to see some. Let me just give you an example.

22 During the heat wave, where we should have had an
23 incredible increase of energy consumption, because we took
24 significant measures, the state government actually reduced its
25 consumption. So, if we were to evaluate that, then you would
26 automatically see a decrease. Do you see what I'm saying?

27 SENATOR PADILLA: Yes, but I also want to be
28 clear that you understand the report or the information that I'm

1 requesting.

2 Since 2004, separate and apart from the
3 benchmarking, what has been done to which state buildings to
4 account for specific energy reduction levels? And then the next
5 step is, what sort of environmental benefits can be attributed
6 by those energy reduction levels?

7 And if we take whatever that number is, you don't
8 know it and I don't know it, but whatever that number is
9 ultimately, I'm trying to track where we were in 2004, where
10 will we be in 2010, where we need to be in 2020, and are we on
11 track or are we not.

12 But what I'm hearing from you is, if all we've
13 done is the benchmarking, we're beginning to do some of these
14 projects, then it doesn't seem to me like we're on pace to make
15 the 2010. Not that we can't get there, but we have a lot more
16 work ahead of us than has been done up until this point.

17 MS. MARIN: Right. Let me share with you a
18 couple of things, Senator.

19 We had not been on target. When I joined the
20 agency, we had not been on target. And there were a number of
21 things why that didn't happen.

22 As a matter of fact, the one big caveat that we
23 ended up having the Department of Finance to agree was to allow
24 the departments -- we needed to give the departments a reason
25 why they would want to participate in this. So, that was a
26 big --

27 SENATOR PADILLA: In addition to the Governor's
28 Executive Order?

1 MS. MARIN: It's money. It comes to, each
2 department has operations money, operations budget. How they're
3 going to allocate those funds, you know, instead of we're going
4 to reduce energy, but we also need some carpet change. The
5 departments had to make decisions based on their budget, and we
6 needed to create that caveat, if you will, that reward. So,
7 when they use this money, eventually they'll be able, once they
8 achieve the savings, they'll be able to use that money for their
9 program.

10 It does, it does come to it's always about
11 money.

12 SENATOR PADILLA: Okay. I look forward to the
13 information.

14 Another question, same category, but in this case
15 the element of the Executive Order that directed the State
16 Architect to adopt standards for high performing, the greening
17 of schools, if you will, that are consistent with the lead
18 standards and recommendations.

19 Has the State Architect issued those standards?

20 MS. MARIN: I don't know the answer to that.

21 SENATOR PADILLA: The follow-up question to that
22 is, if so -- if not, why not? But if so, how many schools have
23 been built using the new criteria?

24 MS. MARIN: Well, I know that all of the
25 buildings that we now build, period, I know that that is the
26 mandate. Every building that is built now for state purposes
27 has to have at least a silver lead certification.

28 SENATOR PADILLA: But this question was separate

1 and apart from the state buildings. This is the criteria we're
2 developing for schools.

3 MS. MARIN: Right.

4 SENATOR PADILLA: Under the State Architect.

5 MS. MARIN: The State Architect --

6 SENATOR PADILLA: I guess let that be another
7 request for information.

8 MS. MARIN: Right. The State Architect falls
9 under the purview of the Department of General Services, and so
10 that therefore --

11 SENATOR PADILLA: So my question, and I know
12 staff is taking copious notes here, has the criteria been
13 established? If not, why not? If so, how many schools have
14 been built under the new criteria?

15 MS. MARIN: I will get you that information.

16 SENATOR PADILLA: Separate to General Services,
17 quantify the environmental benefits from the schools that have
18 been built under the new criteria.

19 Then lastly, the Executive Order by the Governor
20 speaks specific to energy consumption levels. It doesn't
21 reference water usage levels, and conservation of water, or even
22 storm water runoff protection.

23 Any discussion about expanding the scope of the
24 Executive Order to include those areas?

25 MS. MARIN: Well, as you are very familiar with,
26 the lead actually takes into consideration those areas. And you
27 reach platinum by doing all of that, storm drain, water, all
28 kinds of EPP, environmental preference products, when you build

1 something.

2 I don't recall specifically the order. You
3 probably have it in front of you.

4 I think that what you are seeing overall is that
5 we are very -- we're moving the state toward a green
6 environment. So every action we take -- and the Department of
7 the General Services is very familiar with how green I am, they
8 know that wherever we can create savings, wherever we can do
9 something to protect the environment, that's going to be very
10 important to me. They know that.

11 And whether or not it's specifically stated in
12 the Governor's Order, we know how he feels about that as well.

13 So, I think you're moving toward that, whether
14 it's explicitly or not in the Executive Order, you're going to
15 see that.

16 SENATOR PADILLA: And I appreciate what you have
17 to say. What I would suggest is that it may be worth our while
18 to formally incorporate, in addition to the energy consumption
19 levels, water consumption/conservation levels, and the storm
20 water runoff conservation levels as well, incorporate those
21 formally into our milestone, and then track our progress towards
22 those improvements.

23 MS. MARIN: I don't see why we would disagree on
24 that.

25 SENATOR PADILLA: Okay.

26 MS. MARIN: Thank you, Senator.

27 SENATOR PADILLA: Thank you, Mr. Chair.

28 CHAIRMAN PERATA: Any other questions? I didn't

1 understand a word either one of you said, but it sounded
2 important.

3 Who's taking notes out there, just for the
4 record?

5 MS. MARIN: Happy Chastain.

6 CHAIRMAN PERATA: Okay. I see other people
7 writing. What are you guys writing down? We don't like a
8 record of what's going on here.

9 [Laughter.]

10 CHAIRMAN PERATA: We will entertain people who'd
11 like to come in support first.

12 MR. MEJIA: Mr. Chairman, Members, Jose Mejia,
13 California State Council of Laborers, urging your strong
14 consideration to Ms. Marin.

15 I've known her. She's a very fair person. She's
16 very passionate about the needs of Californians.

17 Once again, I urge your consideration.

18 CHAIRMAN PERATA: Thank you. That's a pro: bam,
19 bam, bam.

20 Everybody, follow Jose's lead.

21 MR. GARCIA: Mr. President, Members of the Rules
22 Committee, it's a pleasure to be here today to support Rosario
23 Marin.

24 I won't be as brief as the last speaker --

25 CHAIRMAN PERATA: Give us your name, just for
26 laughs.

27 MR. GARCIA: Bill Garcia. And I represent the
28 American GI Forum, as well as the Macular Degeneration

1 Association, and a few other organizations.

2 We're very proud of Rosario. She's been very,
3 very well received in our community. She gets out there, and
4 she mixes with people. She explains the programs. She
5 advocates in some cases for change.

6 And we're very proud of her. She's done quite a
7 bit in the short time that she's been the head of State and
8 Consumer Services Agency.

9 But I also worked with her when she was a member
10 of the Integrated Waste Management Board, and that capacity also
11 she showed compassion and sensitivity.

12 I probably am out of order by saying this, but I
13 see her as gubernatorial timber, we're that proud of her. We
14 think that someday, that may well be the case. She didn't ask
15 me to say that, and she probably thinks --

16 CHAIRMAN PERATA: There're probably 30 people
17 that won't vote for her on the Floor just in case.

18 [Laughter.]

19 MR. GARCIA: But she also has been very, very
20 much involved in succession planning and leadership training. I
21 heard the question come up earlier.

22 I also am a consultant with the state system,
23 CSU, California State University, and in that capacity I work
24 closely with Rosario and some of her departments insofar as
25 building -- putting plants together as to how we're going to
26 fill that tremendous gap that we're witnessing in the retirement
27 of state employees. So, I do know that she's very, very much
28 concerned those issues and is doing something very concrete

1 about it.

2 So, thank you very much for your time this
3 morning -- this afternoon. I appreciate it. Thank you.

4 CHAIRMAN PERATA: Thank you.

5 MR. COOKNICK: Good afternoon, Mr. President,
6 Members of the Committee. Kurt Cooknick, representing the
7 American Institute of Architects, California Council.

8 I knew that Secretary Marin wore many hats;
9 however, I appear before her with just one hat, and that is as
10 the Chair of the Building Standards Commission.

11 In the ten months that I've worked with
12 Ms. Marin, I've found her to be incredibly firm but incredibly
13 fair, balanced in her approach. She has no problem saying no,
14 and she is a fair and honest broker. I can't say enough about
15 her.

16 I have worked with her now on a very complex
17 issue which she gasped almost immediately, and that was the
18 Building Code. This is something that is not a sexy topic.
19 People don't like hearing about it. They typically fall asleep
20 when you bring it up, but it is important to California, to the
21 design and construction industry, and to our economy as a
22 whole.

23 And as Secretary Marin mentioned early on in her
24 comments, when she came into office, we were dead last in this
25 country for having a current, up-to-date Building Code. We are
26 on the verge of becoming, as California always seems to be, at
27 the very front. We will have the most current Building Code in
28 the nation, which makes us arguably the safest Building Code in

1 the nation. And I owe much of that to her.

2 She moves the process along. She gets us going.
3 She doesn't like long, drawn out deliberations, and she makes us
4 cut to the chase on many issues. And she's been instrumental in
5 us moving this issue off the dime.

6 And I so much appreciated working with her on
7 this issue, and I look forward to working with her on an issue
8 that's extremely important to the architects in California and
9 across the country, and that is sustainability and greening of
10 our buildings. It's something that's near and dear to us and is
11 big on our agenda.

12 So with that, I respectfully ask for your support
13 for Secretary Rosario Marin, and thank you for your time.

14 CHAIRMAN PERATA: Thank you.

15 MR. RAYMER: Thank you, Mr. Chair and Senators.
16 I'm Bob Raymer, representing the California Building Industry
17 Association.

18 I'd like to raise two issues today. As a
19 previous speaker just indicated, we're on the verge of going
20 from dead last, of having probably the oldest Building Code in
21 the country, to being right at the front end.

22 That was not an easy task. If you look back
23 about two-and-a-half years ago, it was estimated that it would
24 take us somewhere into 2012-2013 to get the job done. Secretary
25 Marin has kept us to a very rigid timetable, and we're now
26 looking at January 1st of 2008 to implement the new code. She
27 shaved four-and-a-half years off that administrative process.

28 In addition, we've, the Building Industry

1 Association, we have been discussing a number of green building
2 issues with her staff. In particular, we have our own green
3 building program that goes beyond the state energy code that
4 seeks increased water conservation, indoor air quality, and
5 resource management techniques. We're looking at using her
6 agency, the Building Standards Commission, to develop a
7 stand-alone document that can help get the word out. It will be
8 consistent with our State Building Code, but also effectively
9 help us go to higher levels of energy conservation, water
10 conservation, indoor air quality.

11 And we're looking forward to working with her
12 staff on this. And so far, we're very optimistic.

13 Thank you.

14 CHAIRMAN PERATA: Thank you.

15 MR. WHEELER: Mr. Chairman and Members, Matt
16 Wheeler, representing the California Building Officials. We
17 represent over 500 local building departments throughout
18 California.

19 I'll second everything that's already been said
20 and just add that Secretary Marin has been a pleasure to work
21 with. We've receive nothing more than an attentive ear. We
22 look forward to working together in the future.

23 Thank you.

24 CHAIRMAN PERATA: Thank you.

25 MR. BRADY: Good afternoon, Senators,
26 distinguished colleagues. My name is James Brady, and I'm the
27 Vice Chair of the State Black Chamber of Commerce here in
28 Sacramento. We have 50,000 members. And I'm also a member of

1 the State Small Business Council.

2 So, I am here in support of Secretary Marin
3 because over the past years, I've sat back and watched the
4 certification process, the number of expos that's been conducted
5 around the state by the Department of General Services where
6 she's been attending, as well as talking to the buyers who
7 purchase goods and services around the state. She has enabled
8 them through the Department of General Services to refine our
9 way, how we do and conduct business throughout the State of
10 California. So, as a result of that, we have a certification
11 down to one week, and perhaps days real soon, which I think is
12 just explosive.

13 In terms of -- she has a kind of Millenium
14 thinking, I think, that we need in this state to move particular
15 1106 forward that speaks to the issue of 25 percent contracting
16 for small business as well as disabled veterans. So, we really,
17 really appreciate her being here and support her confirmation
18 today.

19 Thank you so much.

20 CHAIRMAN PERATA: Thank you.

21 MS. ZARENDA: Good afternoon, Mr. Chair and
22 Members of the Committee. My name Nancy Zarenda, and I'm the
23 Director and Founder of the Spanish Language Academy in
24 Sacramento and a board member of the Hispanic Chamber of
25 Commerce in Sacramento.

26 I've known Rosario Marin since her mayorship in
27 Huntington Park, and I can attest to her integrity, to her
28 creativity, and her responsiveness to a multi-lingual and

1 multi-cultural California and nation. Rosario, who is
2 bilingual, biliterate, biculture, is a role model. She's a
3 source of pride to California's 12 million Latinos and Latinas.

4 I respectfully request your highest consideration
5 of Rosario Marin.

6 MS. D'LIL: I'm HolLynn D'Lil. I'm with the
7 Coalition of Disability Access Professionals.

8 I had the opportunity and pleasure to meet with
9 Ms. Marin last month, last year. And it was a very encouraging
10 meeting.

11 We have followed up that meeting with a letter,
12 to which we're still waiting a response, but we expect it soon
13 because we had a very productive meeting.

14 And I just want to make you aware of the
15 importance of what she was saying to us, to the disability
16 community.

17 Keeping in mind that even conservative estimates
18 right now say that by the year 2020, over 20 percent of the
19 population will be over 60, and actually that's in the country,
20 in California that percentage will be higher, as much as a
21 third.

22 And even though this will be the healthiest, and
23 most affluent, most well-educated group of over-60 people we've
24 ever had, there will be a higher incidence of disability. And
25 that means that disability is going to be playing a much more
26 important part in how we spend our resources in this state. And
27 that's where Ms. Marin comes in, and her promises to us to look
28 at the boards that she governs.

1 Right now, we have an incredible amount of
2 noncompliance with California's accessibility laws that date
3 from 1968. And certainly with the Americans with Disabilities
4 Act, that they -- that was signed in 1990, we have such
5 noncompliance that the disability community has had to go to the
6 courts to get enforcement of this important aspect of our civil
7 rights. And by going to courts, we have suffered a media blitz
8 that villainizes us for going to court to get our civil rights
9 enforced.

10 And what Marin -- Ms. Marin is going to do is
11 address this problem at the beginning. It starts at the
12 beginning with the architects. It starts with the contractors.
13 It starts with the public departments, public works and building
14 departments of all the local counties and cities, and city
15 counties where there is no enforcement. So, with her work with
16 the boards, we hope to get people placed on, for example, the
17 Architectural Licensing Board who are knowledgeable of the
18 accessibility laws and regulations so that we can get questions
19 on the licensing exams that pertain to accessibilities, and so
20 we can get enforcement, get them staffed so they can enforce,
21 and so we can get some education around accessibility.

22 And we're looking at the year 2020, and having 20
23 percent to a third of the population over 60, and we started
24 with the Americans with Disabilities Act in 1990, we're still
25 not even half way there to enforce that law, much less the laws
26 in California that date back to '68 and '69.

27 So, we're very encouraged by her appointment, and
28 of course we want to urge you to support her so she can support

1 the disabled population in this country with her work, and in
2 this state particularly.

3 And I just had to slip in one little thing,
4 because you had said, Senator, you talked about the lack of
5 maintenance here on the Capitol grounds.

6 The Capitol itself really lacks severely in
7 accessibility. For example, the restroom on the first floor
8 doesn't have a toilet stall that's large enough to accommodate
9 somebody in a wheelchair who cannot stand. You have to be able
10 to stand if you're going to use that restroom. And then, we
11 only have accessible restrooms like in every other floor.

12 I've been here years ago, and when time was of
13 the essence, I had to go to the restroom and had to go -- wait
14 in line at the elevator, and took an inordinately long time to
15 be able to get back to where I needed to be.

16 And the Capitol, of course, sets the tone for the
17 whole state. And maybe this is one of the reasons we have such
18 lack of compliance in this state, such a cavalier disregard of
19 our accessibility laws and regulations. It starts here at the
20 Capitol. So, I'd like to urge that that be something
21 considered, and bringing the Capitol into compliance would be
22 really nice.

23 Thank you.

24 CHAIRMAN PERATA: Thank you.

25 MS. D'LIL: And also -- one more thing -- about
26 recycling, about greening.

27 I was just in the cafeteria. There could be a
28 lot more recycling and biodegradable. I mean, we're eating out

1 of plastic down there that's not ever going to biodegrade. So,
2 you could start there.

3 CHAIRMAN PERATA: Thank you. Are you taking all
4 this down?

5 MS. MARIN: They are.

6 CHAIRMAN PERATA: Anyone else?

7 MR. SKAFF: Mr. Chairman and Members of the
8 Committee, my name is Richard Skaff. I'm here representing both
9 myself and a nonprofit organization that I am the Executive
10 Director of, Designing Accessible Communities.

11 I have spent 15 years as a building official with
12 the City of San Francisco. I was the Deputy Director of the
13 Mayor's Office on Disability, and opened that office for Mayor
14 Brown, and actually am a retired member of CalBO, California
15 Building Officials, who's here represented today. And I've been
16 a mayor and council member in Marin County in one of the small
17 communities there, so I have a lot of --

18 CHAIRMAN PERATA: Give it a plug. Go ahead.

19 MR. SKAFF: The town of Corte Madera.

20 In any case, I'm here too on the support side
21 this time, Senator. You've remembered seeing me in the past on
22 not such a friendly side.

23 CHAIRMAN PERATA: I remember.

24 MR. SKAFF: I'm also here to say thank you to the
25 Secretary for meeting with a number of us to talk about our
26 concerns, and am also waiting for a response, which I expect.

27 I'd like to also ask the Committee to ask the
28 Secretary, as you did in past hearings when one of the members,

1 most recent members was confirmed, Mr. Jenson, to the State
2 Building Standards Commission, I would also ask that you ask the
3 Secretary to follow through with these issues, not because I
4 don't believe she will, but as a commitment by this Committee
5 and the Senate on these issues.

6 Ms. D'Lil talked about the concept of adding
7 people with disabilities with knowledge and ability to be on the
8 boards and commissions that are making decisions about our lives
9 on a daily basis. It's extremely important, and the Secretary
10 has said that all we need to do is send her a list of names, and
11 she will do everything she can to bring that process to be. So,
12 we look forward to that as an ongoing thing, not just with one
13 elected official, but as a concept that stays in the State of
14 California and becomes part of the appointment process, that
15 there be people that represent our community in all aspects of
16 the boards and commissions.

17 We're also concerned. In our past
18 administration, we had been able to convince the previous
19 Governor to develop an ongoing relationship with the disability
20 community, and we actually had monthly meetings with the cabinet
21 members, and then with each of the prime departments or agencies
22 that affect our function in the State of California: CalOSHA,
23 OSHPOD, DSA, General Services especially real estate. And that
24 be on an ongoing monthly basis so there's not a need to respond
25 to crisis, but a proactive process, where we have ongoing
26 interactions so we're not coming after there's a problem, but
27 we're resolving issues on an ongoing basis. So, that
28 relationship as a cabinet member that she could help us with

1 would be greatly appreciated.

2 We've had an ongoing problem with the State
3 Architect -- not with the State Architect David Thorman. As you
4 remember, we were here to support in his confirmation, and we
5 continue to support him. And he's been attempting to be
6 proactive. I'm on his Excellence Committee for School Projects.

7 But we have an agency or a department, State
8 Architect, that had legislated a fund called the Access Fund,
9 that in the last two or three administrations has been, because
10 of budget shortfalls, has been removed. It was originally set
11 by the State Legislature to only be used for access issues
12 within the State Architect's Office.

13 It's never been repaid. I believe the last
14 draw-down for General Fund was \$10 million. It was a
15 substantial fund, and I may be wrong on that number, but it was
16 a substantial fund that, without that money, the State Architect
17 may not have the funding necessary to do all of the things he
18 should be able to accomplish.

19 For example, we're still waiting to have a
20 document that will analyze and interpret the State Building Code
21 for access. So, that's another major issue.

22 We also would like to ask the Secretary after
23 she's confirmed, and we expect she will be, to help with a
24 statewide advisory committee to help her look at issues
25 statewide. Let me give you a quick example, and this is not an
26 effort to pick on any one agency, but Caltrans, which the
27 Secretary has no control over but as example, where, within the
28 last year or two, was given the right to self-certify projects.

1 I have an example where they built or rebuilt the north end of
2 the Golden Gate Bridge, which I'm sure all of you are aware of.
3 It's called the Bower Dana Point -- Dana Bower Point Vista
4 Point. And I think that was at a cost of close to \$15 million.
5 They have just spent over half a million dollars to rebuild
6 those areas where they failed to include the correct
7 accessibility.

8 We need to find a way that we don't spend public
9 funds on correcting failures. And not that we will ever be
10 perfect, but we have to create a better program or a better
11 process to assure that whatever state agency is working on
12 building projects, or facility projects, or developing policies,
13 that we actually have those projects and policies developed
14 correctly.

15 And lastly, I would suggest that the issue of
16 greening I can't disagree with. We in San Francisco have one of
17 the very first green main libraries. I was involved with the
18 development of that major project and support it. I can't
19 remove myself and just focus on disability access, because the
20 greening of America is going to affect me positively, I hope.
21 So, I certainly support that.

22 But what I'd like to ask both the Rules
23 Committee, all of you here, and the Secretary is to give because
24 of our population and the increasing numbers of our population,
25 both as we age and those coming back from Iraq, that we put on a
26 similar level of importance the issue of accessibility and civil
27 rights for people with disabilities to allow us, both because
28 it's cost effective and it's the right thing to do, to allow us

1 to create communities across the State of California that will
2 be looked on as the way to design our communities that is
3 available for everybody. That the communities aren't for people
4 who are wealthy or poor, or white or black or Hispanic, or male
5 or female, but that serve everybody.

6 And I think if the Secretary can take all of
7 these things plus all the other issues she's responsible for,
8 we'll do everything to support her.

9 Thank you very much.

10 CHAIRMAN PERATA: Thank you.

11 MS. RIKER: Hi, my name is Jean Riker.

12 I just wanted to say we -- I support you and in
13 all of your endeavors. And I wanted to say, too, that it seems
14 that you have a listening ear for people with disabilities, and
15 thank you for that.

16 CHAIRMAN PERATA: Thank you.

17 MR. LOPEZ: Mr. President, Senators, my name is
18 David Lopez.

19 I'm the President of the National Hispanic
20 University in San Jose, California, a very unique institution
21 Modeled after the historically black colleges of the south. A
22 couple of days ago we celebrated Martin Luther King. He
23 graduated from Morehouse. There are others like Morehouse in
24 the south. This is our first attempt to create a university
25 specifically addressing the needs of Latinos in the State of
26 California and in the Bay Area. We're very proud of our
27 institution. We're making great strides.

28 With that being said, a couple of years ago the

1 Committee for the Commencement Exercise went through a very
2 rigorous process. There were many people that were interested
3 and that we were interested in, but we invited Rosario Marin to
4 come and address our students and their families, and she had a
5 very moving speech about sincerity, honesty, and integrity. And
6 she used the word over and over again, presente. Presente
7 meaning that she was present with integrity and honesty and
8 solid values in every position she's held.

9 And I think she'll continue to do that. That's
10 why I urge you to support her.

11 She also spent time with our families that day,
12 stayed with the families and supported them. I think she's a
13 great role model for not only Hispanics but for all of the
14 diversity here in California.

15 So, I urge you to support her in this position.
16 Thank you very much.

17 Thank you, Rosario, for all that you do for our
18 community.

19 CHAIRMAN PERATA: Thank you.

20 Anything further?

21 MR. HERNANDEZ: I have couldn't wait.

22 Mr. Chair and Senators, Randal Hernandez with
23 Bank of America.

24 And I've had the chance to work with Rosario very
25 often over the years, but most particularly as her position of
26 U.S. Treasurer, and now in her new position.

27 And I want to tell you, she's been terrific to
28 work with as it relates to consumer education and protection.

1 She has always been a dynamic speaker, but also has always been
2 very engaging with the community.

3 On the behalf of the Bank of America, we look
4 forward to working you some more, and we'd encourage your
5 support of her appointment.

6 Thanks.

7 CHAIRMAN PERATA: Thank you.

8 Anyone interested in coming in and knocking her?
9 If you do, do so advisedly.

10 Seeing none, I'm going to ask, any further
11 comments from the dais or questions? Senator Cedillo.

12 SENATOR CEDILLO: I just think it's important,
13 given last week's discussion about contracts and the PUC, it
14 just seems important to us to be very clear about the
15 challenges that can confront California with respect to people
16 who speak other languages. In California, we speak, I don't
17 know, 200 different languages maybe.

18 So, my questions are asking you to share with us
19 what strategies and plans you have to ensure that all these
20 agencies that you have oversight of are sensitive to those
21 challenges. Particularly I'm interested with constituents of
22 your agency, initial contacts, phone, in person, mail, what
23 types of languages, how many languages, what strategies of those
24 agencies you expect them to employ. And then, agency to
25 constituent, and again, the same type of regimen, what type of
26 languages.

27 Because all these are great, and you do great
28 work, but if people don't understand what's being said, then

1 it's a moot point. And you as an immigrant who came here
2 speaking very little English, if any at all, have that
3 experience. So, please share with us.

4 MS. MARIN: Thank you, sir.

5 Senator, it is crucial that the state government,
6 if we're going to be responsive to the needs of our
7 constituencies, we are going to be able to make sure that they
8 understand what it is that we're attempting to do. To that end,
9 the Department of Consumer Affairs specifically -- I can think
10 of two immediate, the Department of Consumer Affairs and the
11 Franchise Tax Board. They have their services in multiple
12 languages. The Fair Employment and Housing Commission, their
13 call center is staffed with people that speak different
14 languages. There is access.

15 It is -- it is really important that we keep the
16 information flow in the languages where they can be understood.
17 I have stressed this. It is important to me personally.

18 And to the degree that it serves the State of
19 California, we should do more not less.

20 SENATOR CEDILLO: Other questions are related to
21 how that also applies to the tremendous amount of services and
22 protections that we have for residents for the State of
23 California, and there's no distinction, for example, on the
24 Building Standards Commission, there's no distinction in terms
25 of Fair Employment and Housing Commission, these types of
26 protections for tenants and for residents. There's no
27 distinction whether or not people -- to one person's immigrant
28 status.

1 And so, are your agencies open as agencies for
2 the residents of California to all immigrants, independent of
3 their immigration status?

4 MS. MARIN: We don't ask what their immigration
5 status is.

6 SENATOR CEDILLO: So, your focus is then on the
7 services that are provided for the protection for the residents?

8 MS. MARIN: To my knowledge, that is not a
9 question that is asked to anybody services.

10 Just to clarify, the Building Standards
11 Commission, that is the codes. The constituencies, if you will,
12 they're not necessarily people.

13 But the consumers, for example, when they call
14 the Fair Employment and Housing Division because they have a
15 complaint, that question is not -- is not asked.

16 The Building Standards Commission is not
17 necessarily available for that.

18 SENATOR CEDILLO: Just finally, since we're
19 prepared to vote and do a motion.

20 SENATOR ASHBURN: I'm prepared to move the
21 confirmation.

22 SENATOR CEDILLO: In doing so, and I will support
23 the motion, I just want to thank you for your service to the
24 state and actually the people of this country as Treasurer.

25 Someone made reference to you being a Republican.
26 I didn't realize you were.

27 [Laughter.]

28 SENATOR CEDILLO: But that won't deter me.

1 I just want to thank you for your service to the
2 state and the people of California. You've done a great job.
3 You're a great example. We've worked together on many issues.
4 I appreciate your efforts and your outspokenness on the question
5 of the driver's license as Mayor, and on the City Council of
6 Huntington Park.

7 I was happy to vote for you the last time, and
8 I'm happy to vote for you again. I don't know if you can be of
9 service again, I'm very pleased to join my colleagues in voting
10 for you. You're a great example not just for immigrants, not
11 just for women.

12 I'm pleased to have so many members from the
13 disabled community here supporting the nominee. You set a great
14 example. It really is tremendous your working with the disabled
15 community, so I'm very proud to join my colleagues and to vote
16 for you.

17 MS. MARIN: Thank you, sir.

18 If I may just add, when I introduced my son Eric
19 as the wind beneath my wings, it is, in fact, because of him.
20 As you may be able to tell, Eric has Downs Syndrome. And it was
21 his birth that changed my life. He changed my life.

22 And I was a banker, and I was on my way up to the
23 success ladder, and when Eric was born my life took a dramatic
24 change. Things happen for a reason.

25 You know, if somebody would have told me when he
26 was born, in the most desperate moments of a mother, that Eric,
27 you know, because of Eric I would become a mayor of a city, I
28 would become the Treasurer of the United States, I would be

1 serving, or I would be here, being considered to lead one of the
2 largest state agencies, I would not have believed that.

3 But things happen, and they happen for a reason.
4 People with disabilities, you know, it's part of who I am.
5 Their issues are more than mine. They're part of me. That's
6 who I am.

7 So, to the degree that we can have an enlightened
8 society that not only tolerates people with disabilities
9 but embraces them and welcomes them, then I believe to the
10 degree that I can, if I can do something about it, that's why I
11 was here.

12 SENATOR CEDILLO: Thank you.

13 CHAIRMAN PERATA: I want to go back to the
14 original point that I was making with regard to where we are
15 with the sunset with the department.

16 I want some clear indication from the Governor's
17 Office, not simply you, how this is going to be dealt with,
18 because I do not believe, again, what I was told is that ten
19 years ago, this problem was dealt with by ignoring the
20 Constitution and hoping that nobody sued. You weren't there; I
21 wasn't there. But there were people in Leg. Counsel who were
22 there at the time, and that's their recollection.

23 So, I want to get this clear. And all I really
24 want to know is, have a direction of, "Here's what we plan to do
25 under these circumstances."

26 If your lawyers have a belief that they should be
27 able to recommend that an urgency bill be put together, then
28 there should be citations to that effect, and have them just

1 talk to Leg. Counsel.

2 It is, you know, a \$5 billion a year industry,
3 and all the people that are at risk, I know you understand that,
4 this is very important to all of us.

5 So I am prepared to entertain a motion.

6 I'd like you to come back next week, to the
7 Committee, and report back so we can have a discussion. This is
8 not about your qualifications or anything else. This is just
9 about a problem that we have mutually, and better we look at it
10 on this side. If you're going to need legislative support, we
11 want to know how to do it. I know it's in the Governor's
12 budget, but I am not yet convinced that the path that he is
13 choosing to go is going to solve the problem.

14 So, if you'll come back next week prepared to
15 engage in this discussion a little bit further, you still have
16 time on your clock, so you're not in jeopardy at all.

17 With that, I will accept the motion and ask you
18 to call the roll.

19 SECRETARY WEBB: Cedillo.

20 SENATOR CEDILLO: Aye.

21 SECRETARY WEBB: Cedillo Aye. Dutton.

22 SENATOR DUTTON: Aye.

23 SECRETARY WEBB: Dutton Aye. Padilla.

24 SENATOR PADILLA: Aye.

25 SECRETARY WEBB: Padilla Aye. Ashburn.

26 SENATOR ASHBURN: Aye.

27 SECRETARY WEBB: Ashburn Aye. Perata.

28 CHAIRMAN PERATA: Aye.

1 SECRETARY WEBB: Perata Aye. Five to zero.

2 CHAIRMAN PERATA: Five-zero for confirmation.

3 That gentleman back there, I don't know if you
4 know Michael Miiller.

5 MS. MARIN: Yes, I do.

6 CHAIRMAN PERATA: So, you guys can just hook up,
7 and whatever you need from our end of it, we'll be really happy
8 to do it.

9 MS. MARIN: That sounds good to me, sir.

10 CHAIRMAN PERATA: Okay, thanks so much, and
11 congratulations.

12 MS. MARIN: Thank you. Thank you all.

13 MR. HERNANDEZ: I'm glad the students stayed
14 around.

15 CHAIRMAN PERATA: Where did everybody go?

16 MR. HERNANDEZ: The students are here. That's
17 most important.

18 CHAIRMAN PERATA: They have to be here. They're
19 doing an assignment.

20 Nobody to introduce you?

21 MR. HERNANDEZ: No. Senator Lowenthal had
22 offered to come and introduce me, but he had a committee
23 conflict.

24 I want to thank you for this opportunity to speak
25 before you Senator and the Committee.

26 Let me just take a point of personal privilege
27 here, if I may. As you know, I was the Governor's first
28 appointments secretary, and I want to tell you how much of

1 pleasure it was working with Nettie Sabelhaus. Nettie does, as
2 you know, a lot of good work for this Committee. She was tough
3 but fair.

4 CHAIRMAN PERATA: Nettie, you're being praised.
5 This is not going to happen all that often.

6 MR. HERNANDEZ: That's why I thought I'd better
7 take this opportunity.

8 [Laughter.]

9 MR. HERNANDEZ: We had a great working
10 relationship. And frankly, I told her during the interview that
11 I thought, you know, I sent enough people in this chair, it was
12 probably time that I took it on myself, so here I am.

13 Let me just start off by thanking all the
14 Senators for your strong support of the community colleges.
15 Last year was a great year for us, both in terms of budget,
16 Proposition 1(D). We got through equalization. It was really a
17 great year for community colleges. So, I want to thank you and
18 the Governor for your support. It's very important.

19 We know we've got a lot more work to do. There's
20 a lot of challenges out there in education, as you know, and I
21 look forward to continue on in this position.

22 And one of the things I did want to do is to do
23 what I can, as one particular board member, to really get out
24 there and communicate the importance of the community college
25 system's strategic plan. You may not be aware, but it's been
26 about almost a year-and-a-half process now that the system
27 office went through to outreach to the local community colleges
28 to really kind of create almost a Master Plan, if you will, for

1 the community colleges.

2 As you know, sometimes the process is
3 important -- is as important as the product, and now we've got
4 a good plan in place. Now the next step is to implement that
5 plan. And I'm going to see it as one of my key goals as a Board
6 of Governor to make sure that that gets communicated out, that
7 we have regular reporting back to the Legislature, and that
8 indeed we accomplish a lot of goals in that plan.

9 With that, I'll be happy to answer any questions.

10 CHAIRMAN PERATA: I just want to follow up a
11 little bit to the heels of the previous nominee.

12 We have, in this body, expressed a lot of
13 interest in what we now call career technical education.

14 What was it when you were there? Industrial
15 arts, voc. ed. I always say, we changed the name, we just never
16 do anything about it.

17 There was \$50 million in the budget for that.
18 Can you briefly say how that money's being used and, how the use
19 is being evaluated?

20 MR. HERNANDEZ: Right now, you know, last year
21 was the first year of that allocation, so we went through a
22 pretty extensive outreach process to really talk to lot of the
23 community colleges in terms of what are they doing now, how are
24 some of the programs working.

25 We don't have any results yet, obviously. But I
26 think part of it is just doing as much outreach as we can to a
27 lot of the community colleges.

28 One of the things I'm trying to do is to see what

1 we can do to shine a light on the really good career technical
2 education programs out there, because those are the ones that we
3 should be targeting the funding to. As you know, some of it is
4 already formula based, if you will, but we do have a lot of
5 discretion in terms of looking at where we can put not only to
6 good programs, but programs that are looking towards future
7 industries.

8 One of the examples I like to note is, the system
9 office in conjunction with several of the community colleges
10 just established the Southern California Center for
11 Transportation and Logistics with a group of business people in
12 the region. And that was our goal, was to indeed begin to look
13 at future industries, or where the career needs are going to be
14 five years from now rather than continue to doing things that
15 we've always done in the past. So, I think that's an example of
16 how we're trying to look at career tech, technical education, in
17 kind of a forward looking way, and trying to meet some of the
18 challenges that we're facing right now in California.

19 CHAIRMAN PERATA: I know you're conscious of the
20 fact that we just did a huge infrastructure investment, and
21 there's a lot of people that will have to be doing the work on
22 that.

23 When I was out stumping for this, I had a meeting
24 when Bob Foster at that point was not the Mayor of Long Beach,
25 but he was with Edison. And he was telling me how difficult it
26 was to get workers, electrical workers in their company. And
27 that, you know, the base salary was 70, and with overtime it
28 went up to 100. But the industry was having a very hard time

1 keeping pace.

2 And it occurred to me that whatever the outreach,
3 or however you're doing it, there are areas. I mean, there
4 seems to need to be some kind of a nexus. You said you've
5 reached out to businesses. There has to be some nexus between
6 those who are providing the jobs, the employers, and what we're
7 doing.

8 And I know one of the major problems with
9 academia is, we all think that we know everything.

10 So, I would encourage you to look at the
11 employers of today and tomorrow and see what their needs are.

12 MR. HERNANDEZ: Well, this was actually a
13 question that came up at our Board of Governors meeting today
14 and yesterday.

15 I asked the question that obviously we were
16 successful in getting the voters to approve pretty significant
17 bonds across the board. What are we as the community college
18 doing -- community college system office doing to work with the
19 respective state agencies to look at how can the community
20 colleges fill that gap around training programs, whether they be
21 in transportation, the education facilities, you name it. We
22 should be there, stepping up to look at innovative programs, or
23 working with those state agencies to figure out how indeed we
24 can make that nexus between getting those dollars out the door
25 and creating the right kind of jobs for people who are trained
26 for those jobs. Agree.

27 CHAIRMAN PERATA: Well, I'd be interested. I'm
28 sure that we'll run across one or the other.

1 MR. HERNANDEZ: Absolutely.

2 CHAIRMAN PERATA: And that is an area of great
3 concern to a lot of us.

4 The second area is text books. You know, in some
5 cases now, the text book costs exceed the cost of tuition or
6 fees.

7 What do you see in that whole area?

8 MR. HERNANDEZ: An ongoing problem, obviously,
9 and it's one of those issues that I think most of our community
10 colleges wish they could get their arms around with -- get their
11 arms around with the text book companies themselves.

12 Obviously, financial aid's going to help with
13 that, but that can only go so far.

14 I feel fortunate that we have at least an ability
15 for those of low income to offer a Board of Governors fee waiver
16 for the enrollment fees. That helps a little bit.

17 CHAIRMAN PERATA: Is there any way to extend that
18 to text books?

19 MR. HERNANDEZ: You know, there's been discussion
20 about that. Frankly, it comes down to a budget issue. You
21 know, that's the bottom line.

22 But I think that we might have to examine
23 something like that.

24 CHAIRMAN PERATA: I don't want to make this into
25 a political discussion, but the Governor, the outreach budget
26 was cut now for the CSU and UC. I don't know if it affected the
27 community colleges, but --

28 MR. HERNANDEZ: No.

1 CHAIRMAN PERATA: -- just in terms of financial
2 aid, I was surprised to learn that the level of financial aid
3 that was available for students at the community college system.

4 What's the prototype for outreach for that?

5 MR. HERNANDEZ: Well, unfortunately, there isn't
6 a system-wide strategy. Obviously, each community college
7 district has to do it their own. But from what I've seen,
8 they've been pretty proactive, because at the end of the day,
9 you know, they get their funding based on enrollments, so it's
10 very important that they become innovative in how they do their
11 outreach.

12 Again, one of the things that I'm trying to do is
13 to see from a system level, can we help identify where some cost
14 effective outreach programs along the way that we can shine a
15 light on and see what we can do to duplicate or create models
16 for other community college, because they're all trying to do it
17 in some way. It's just, are they doing it wisely and utilizing
18 their dollars in the best way.

19 CHAIRMAN PERATA: It'll help to evaluate that.
20 Is it about 36 percent, we estimate, of those who are eligible
21 actually get it.

22 MR. HERNANDEZ: Yeah.

23 CHAIRMAN PERATA: So, we're not. And this is
24 free money, as far as I'm concerned. So, that's something that
25 you can certainly as -- what do we call you, a trustee?

26 MR. HERNANDEZ: Board of Governor, or Governor.
27 You can just call me Governor.

28 [Laughter.]

1 CHAIRMAN PERATA: That's convenient. We have two
2 people now running for Governor.

3 I'd like you to be very interested in that,
4 because leaving that kind of money on the table with the federal
5 government is like sinful.

6 MR. HERNANDEZ: I agree. I'll take that back to
7 the board.

8 SENATOR ASHBURN: I'd like to pick up on a couple
9 of the points that Senator Perata raised.

10 The first would be with respect to vocational
11 education, and let me point to nursing as a prime example, where
12 I think the community colleges can do a much better job of
13 helping to prepare people to be not only registered nurses, but
14 in other health care professions --

15 MR. HERNANDEZ: Absolutely.

16 SENATOR ASHBURN: -- that are related, the
17 licensed vocational nurses, the psychiatric technicians.

18 In one of my communities, we a very large state
19 facility. That state facility requires psychiatric technicians.
20 We have a community college in that very community that does not
21 offer the programs to train the students to stay in town to work
22 at the facility that provides good jobs and great benefits.

23 It makes no sense to me at all. We have adult
24 education; we have federal job preparation of funding. We have
25 the array of different disjointed services, but I for the life
26 of me cannot get a program put together where the community
27 college leads in offering sufficient educational slots to train
28 the people that we need for the jobs that are going unfilled in

1 an essential facility.

2 And that nursing crisis is all across our state.
3 And I think the institutions of higher education, the community
4 colleges, all of the other programs, federal and state, that are
5 directed toward job preparation and training are so disjointed,
6 and that there is such a lack of focus in getting that job done.

7 I know you, and the reason that I'm using this
8 example is that I would look, I think that the Board of
9 Governors can do something to focus the colleges, the community
10 colleges in particular, to a leadership position on those
11 particular jobs that are of critical need in our state, and they
12 are jobs that require, and the President Pro Tem mentioned
13 electricians.

14 We hear that all the time in the crafts, in the
15 trades. We know it's true in nursing. It's in teachers as
16 well.

17 You know, we do a lot of other things in the
18 community colleges, but we don't seem to be able to train the
19 people to take the jobs that are begging in our own state.

20 MR. HERNANDEZ: We know health care is going to
21 be a bigger and bigger occupation, not just today but into the
22 future.

23 And frankly, around the nursing initiative, we
24 have been very happy that there's been special allocation of
25 budget funding for the nursing initiative.

26 From the response we're getting back from some of
27 the community colleges, one of our challenges has been trying to
28 get practitioners or technicians to come back and teach in the

1 community colleges.

2 SENATOR ASHBURN: No, that isn't the problem.

3 The greatest problem we have is that the union
4 that represents the faculty members will not allow other
5 practitioners who are qualified to teach the programs, to teach
6 on the campuses. That's the biggest problem.

7 And the private sector, or the not-for-profit
8 sector, not-for-profit hospitals, for profit hospitals, other
9 medical care facilities, they are willing to make experienced
10 nurses who are qualified and credentialed to teach, they're
11 willing to make them available, and to subsidize their salary,
12 to teach those programs. But they're not allowed on the
13 campuses to teach the programs.

14 Now, that's wrong when you have a critical worker
15 shortage in an essential area. And we have it in many different
16 instances.

17 So, I'm asking you, in assuming this
18 responsibility, to help through the Board of Governors of the
19 Community Colleges, which I think is now going to be looked to
20 as the number one vocational education instrument in the state,
21 to blast through those barriers.

22 And sometimes we're going to make some people
23 uncomfortable about that, but you can't, we just can't do it the
24 old way.

25 MR. HERNANDEZ: I think you're right. First is
26 identify what are indeed the obstacles here that --

27 SENATOR ASHBURN: Take an inventory. That should
28 take you like 24 hours. I mean, seriously, it is not that

1 complicated when you pull a task force together of why can't we
2 get people into these slots and get them trained, and what do we
3 need to do at each level?

4 And it isn't always money, because I know for a
5 fact the private sector, and the not-for-profit hospitals are
6 willing to subsidize the salaries of qualified instructors if we
7 can get them into classroom so that we can teach for the
8 professions that are needed.

9 MR. HERNANDEZ: Well, a lot more work, obviously,
10 needs to be done there, Senator.

11 And you have my commitment that we'll make sure
12 we begin to identify what indeed those are -- what are those
13 obstacles, and come back with a game plan.

14 SENATOR ASHBURN: On the subject of text books,
15 that's a huge issue for me. I would encourage that you look at
16 a program at Taft College, where the college is in the book
17 rental business.

18 And what President Roe Darnell has done at Taft
19 College is, the college buys the books and then rents them out
20 to the students. And they are not bearing the cost of having to
21 pay for those books at the full market value, instead on a
22 rental basis. And they have figured that over the life of the
23 book, and it's a reasonable cost.

24 I think it's a model program in the state. It
25 ought to be encouraged at all the campuses.

26 MR. HERNANDEZ: We'll take a look into it.

27 SENATOR ASHBURN: I have a lot of confidence in
28 you --

1 MR. HERNANDEZ: Thank you.

2 SENATOR ASHBURN: -- but on the first subject
3 that Senator Perata raised, and that I've asked you further
4 about, on the vocational education, there are barriers that are
5 as phoney as can be to why people are not getting trained for
6 jobs that of critical need. I really hope that you can take
7 this on and kind of blast through and get that done.

8 MR. HERNANDEZ: We will.

9 SENATOR ASHBURN: Thank you.

10 SENATOR CEDILLO: I will almost say ditto to what
11 my colleague's stated. I think it is important for you to
12 inventory what the barriers are.

13 I hear different responses when I talk to people
14 from the community college on why we don't have nursing
15 programs.

16 There is such a tremendous need. It's an
17 expanding industry, and the Governor has articulated a very
18 comprehensive and profound commitment to providing health care
19 for all Californians, which we applaud.

20 But we have a real challenge in terms of the
21 actual infrastructure, the capacity of the state to deliver
22 those services. If every Californian was insured today, would
23 we have the capacity to provide those services? Do we have the
24 nurses, the home care workers, nursing assistants, the psych
25 techs? There is much work to be done.

26 And I hear different reasons why it's not getting
27 done. I think what my colleague and I are concerned about is
28 that whatever the reasons are, we should find out, and then

1 eliminate, make strategies to eliminate those barriers, whether
2 it's in the health field or in the trades.

3 I know that the trades have a very serious
4 commitment. I hear same thing from them. We just can't get the
5 workers. We just can't get the applicants. We just can't get
6 people trained because the jobs exist as we build up California
7 for the future.

8 So, just a reiteration of what my colleague said.

9 Then secondly, I want to know where you are, if
10 you can share with us, the benefits. I carried last year, and I
11 believe you guys supported, SB 160, which would help make
12 eligible many of the students for additional aid. Undocumented
13 students are allowed to pay in-state tuition, but yet we don't
14 offer them aid, and then it undermines the efforts, the
15 commitment.

16 We have a challenge in California. We have, as
17 the demographics indicate, we have to educate an immigrant
18 workforce from all over the world to be the future workers if
19 we're going to maintain our global competitiveness. That is the
20 reality.

21 MR. HERNANDEZ: Again, we had that discussion the
22 last couple of days at the Board of Governors meeting.

23 Unfortunately, it's one of those issues that we
24 have to take a look at in the full context of the budget. As
25 you know, there's a big demand for basic skills funding.
26 There's more funding demand for career tech ed. There's clearly
27 funding requested for more scholarships.

28 We wish we could do it all, like I know you wish

1 you could provide it all. It's just not always the case.

2 So, I think we have to take a look at that issue
3 within the context of the full budget and try and do the best we
4 can to prioritize.

5 I again say that it's a small piece, but I'm glad
6 at least we've got the ability as a Board of Governors to waive
7 the enrollment fee. So, that's a step in the right direction at
8 the very least.

9 SENATOR DUTTON: Just a couple of questions.

10 Actually, I'm going to ask you about nursing,
11 too, but I'll wait, because I think part of the problem is the
12 way the community college system is the set up.

13 What actual controls do you have over community
14 college districts as a member of the Board of Governors?

15 MR. HERNANDEZ: Well, you get into that
16 philosophical discussion.

17 I mean, we could set minimum standards. I think
18 we can identify model programs. I think we can put the
19 framework in which the local districts operate in.

20 But you're right, having this bilateral
21 governance and shared governance is a challenge for the system
22 office.

23 We have this process called consultation council,
24 which means that our system office and the Board of Governors go
25 through an extensive outreach and consensus building process.
26 We hope consensus is always reached, but not always.

27 As you know, sometimes when state government
28 steps into a local district, you know, we're big government and

1 we're here to help. And the response at the local level isn't
2 always the best.

3 But I think, again, with that said, I think there
4 is definitely a role for the Board of Governors and the system
5 office to set that framework, and frankly, to kind of create a
6 structure that sets the accountability standards in place,
7 similar to what is being done with AB 1417. Try and set some
8 kind of evaluation, consistent evaluation and accountability
9 standards in place for those districts to have to respond to.

10 SENATOR DUTTON: My understanding is, you really
11 don't have any authority. You can only make recommendations,
12 or do you have --

13 MR. HERNANDEZ: Can we go in there and tell them
14 you --

15 SENATOR DUTTON: Well, do you have a big stick
16 that you can use?

17 MR. HERNANDEZ: We like to think the budget is a
18 big stick, but that's again limited to some extent because of
19 our enrollment. It's a challenge; it's a challenge.

20 But again, it's a discussion that we've had
21 ongoing, and it's one of those things that I don't think you can
22 look at community colleges in a vacuum and just look at their
23 governance structure. I think it's something that you have to
24 look at K through upper -- higher education structure, because
25 there probably should be a better structure between community
26 colleges and CSU and UC, and K through 12 and community
27 colleges.

28 So, each one of them has a little bit different

1 structures in place. Is that in the best interest of the
2 students at large?

3 So, it's an ongoing challenge, but, you know, the
4 system is what it is right now.

5 SENATOR DUTTON: I'm actually a product of the
6 community college system. I attended one in Los Angeles, Los
7 Angeles Valley College actually, so I'm very familiar with the
8 interworkings.

9 MR. HERNANDEZ: Good experience, right?

10 SENATOR DUTTON: And in addition to that, my
11 wife, who used to be an x-ray technologist, she's now a program
12 director and professor at a community college in my district.

13 MR. HERNANDEZ: Great.

14 SENATOR DUTTON: So, I have a little bit more
15 knowledge about what's happening with regards to the health
16 sciences.

17 I'll suggest to you, one of the challenges you do
18 have, especially in the health sciences, those programs are
19 extremely expensive. And unfortunately, a lot of times
20 community colleges do not want to devote the resources necessary
21 to conduct those programs because they do not --

22 MR. HERNANDEZ: The facilities.

23 SENATOR DUTTON: Well, they don't get a lot of
24 extra dollars for it. They get basically the same dollars for
25 instructional type programs as they do for a lot of the health
26 science type programs.

27 They're expensive to maintain. They're expensive
28 to equip. X-ray equipment and some of the other things that

1 they need to teach with are sometimes problematic.

2 But also, too, within the system itself, what
3 ends up happening, you have a prerequisite requirement that's
4 not necessarily consistent between colleges. So, if you have
5 somebody who's actually, because they're trying to work
6 full-time, get themselves prepared, get their basic
7 prerequisites under their belt, to enter a nursing program,
8 that's a three-year process. And unfortunately, if they find
9 themselves in a situation where they have to transfer from one
10 to the other, they may not get into the program because it's
11 limited in space, and then they also find out that this
12 community college district has a different prerequisite than
13 this one.

14 So, we've created a lot of additional challenges.
15 So anything you can do to actually create an easier process for
16 students would probably be of interest.

17 I personally would also be interested to try to
18 give you a little bit bigger stick if you need it.

19 MR. HERNANDEZ: Well, I was going to say that
20 part of the strategic planning process that we've been going
21 through that looks at a whole series of issues related to the
22 community colleges in general, one of the things that we're
23 trying to do is identify obstacles, whether they be regulatory,
24 legislative, or labor related, and come back to the Board of
25 Governors in terms of what are some of those obstacles.

26 And we probably are going to need to come to the
27 Legislature with some potential changes along the way.

28 SENATOR PADILLA: I've known you for several

1 years now.

2 MR. HERNANDEZ: Senator, good to see you.

3 SENATOR PADILLA: I haven't heard anything thus
4 far that will cause me to vote no yet --

5 [Laughter.]

6 MR. HERNANDEZ: But we're not done yet.

7 SENATOR PADILLA: But just a couple of
8 observations and some concerns that I do want to raise from
9 being familiar with the community college system myself, and
10 experience with my district back home.

11 And after some of the information you provided to
12 the Committee by your responses to the questionnaire from the
13 Office of Research, I've heard in your verbal presentation and
14 in your questionnaire repeatedly reference to "our limited
15 power, limited authority." And then also now the budget, and
16 your understanding, appreciation for acknowledging the budget as
17 a whole.

18 But it seems to me that if you're being appointed
19 to the Board of Governors, that you're going to be an advocate
20 for the Board of Governors and the community college system as a
21 whole, and in fact fight for resources, fight for attention,
22 fight for funding.

23 So, take it as constructive critique, if you
24 will, but the response with, "Well, you know, we have to take
25 into consideration the budget challenges as a whole," that
26 doesn't suffice for me in this hearing. And I don't think
27 that's the mind set or the tone that you should carry your term
28 on this board --

1 MR. HERNANDEZ: Absolutely.

2 SENATOR PADILLA: -- if you're appointed to serve
3 on it, number one.

4 MR. HERNANDEZ: And I would agree with that,
5 Senator. I think one of the things, and I've been with the
6 Board of Governors now a year, and one of the challenges,
7 probably one of the challenges that get back to staff
8 constantly, are we utilizing our resources in the most cost
9 effective manner? And again, can we identify model programs out
10 in the district that are not only having a big impact, but are
11 doing it cost effectively, so that indeed if we can create a
12 model for that, hopefully frees up other resources along the
13 way.

14 So that again, we're -- because one of my roles I
15 see most critical as a Board of Governors, being a good steward
16 of the resources that we have now.

17 Of course I'm always going to be an advocate for
18 more resources. I wish we could have more resources. I wish we
19 could do everything that's in that strategic plan.

20 Frankly, one of the big challenges we have right
21 now at the system office is, while the community college budget
22 over all has increased, most of those dollars are being driven
23 out to the districts at the same time the system office is being
24 asked to do more oversight, evaluation, and again, identify
25 model programs. Our system office budget has not grown, and in
26 fact has been pretty significantly cut from the budget cuts of
27 years past.

28 So, we have our own challenges as a system, and

1 that's probably where I'm going to be looking to do our biggest
2 fight, because if we're going to do our job as the Board of
3 Governors, a lot of that is driven by evaluation, and
4 research-driven evaluation, not just anecdotal.

5 So, we've got a lot more work we need to do at
6 the system office, and resources we're going to need.

7 SENATOR PADILLA: So that's on the budget side of
8 the concerns expressed.

9 On the governance side of it, again, you talk
10 about limited authority, limited ability to influence or
11 encourage, et cetera, et cetera.

12 Are there specific proposals to change that
13 structure that have been discussed at the board or that you
14 would offer to this Committee?

15 MR. HERNANDEZ: Not any specific structures around
16 the governance issue right now, no, not at the board level.

17 Again, I think that's something that we cannot do
18 in a vacuum.

19 SENATOR PADILLA: Going back to the questionnaire
20 that you replied to, the same question there asked you what you
21 consider the major challenges facing the community colleges in
22 California.

23 In your answer, you included that,

24 "... over half of all incoming
25 Community College students need
26 basic skills math and English
27 programs."

28 And further you said,

1 "The need for basic skills
2 programs will likely increase as
3 California's population continues
4 to grow."

5 Can you explain that? I'm not sure I understand
6 that second part completely.

7 MR. HERNANDEZ: Well, the assumption is, if you
8 look at the trends for the kind of students that are being
9 enrolled in the community colleges, if those trends continue,
10 we're going to continue to see a bigger demand for basic skills
11 type of course work from those students.

12 Again, I keep coming back to it, but I think it's
13 a discussion that community colleges need to have with K through
14 12 to see what we can do at the community college level to begin
15 to identify early assessments of potential college students.

16 And let me take a step back. Let me just say
17 that's not only for community colleges, but that's colleges in
18 general. What can we do collectively to work with K through 12
19 to do some early assessments of students so that by the time
20 they graduate high school, they don't have to go back and do
21 basic skills again, that they've already been able to get a lot
22 of that in their K through 12 education.

23 SENATOR PADILLA: I appreciate your explanation
24 because there's two reasons why that statement raised a big red
25 flag for me.

26 One was, it seemed to be based on an assumption
27 that we're accepting the current trends. And we sat here just
28 two weeks ago, considering a State Board of Education appointee,

1 and having this conversation about dropout rates, about K
2 through 12 school performance, et cetera, and the sense of
3 urgency to not accept these trends, and to do something about
4 them.

5 I know you've acknowledged in other areas of your
6 questionnaire the need for further collaboration with
7 educational institutions at all levels, and I appreciate that.
8 Maybe we can get into some of the model programs you've
9 identified, if any. So that was one area.

10 The other area is, specifically the area before
11 this response, you're talk about demographic change, and the
12 increase in the Latino and Asian populations specifically.

13 So, pardon me if I'm a little sensitive here, but
14 I hear you talk about the increase in the Latino and the Asian
15 student population, and then in the next section I hear you
16 write, as our population continues to grow, the need for basic
17 math and skills programs are going to increase, the need for
18 them are going to increase.

19 So, in my mind, in my heart, didn't want to
20 connect the two, but --

21 MR. HERNANDEZ: I understand where you're going.

22 SENATOR PADILLA: -- but it was hard not to, the
23 way it was written.

24 MR. HERNANDEZ: Again, the issue was based on
25 current trends. There was not any kind of ethnic overtones, if
26 you will.

27 And you know me as someone who's really done a
28 lot of outreach to the ethnic communities to try and provide

1 those kind of education support along the way.

2 As it relates to basic skills, I also want to let
3 you know that in our March meeting, well, before our March Board
4 of Governors meeting, we're going to spend a full day to
5 continue the discussion specifically on basic skills, and what
6 can the community colleges do to improve basic skills teachings,
7 and again, looking at what can we do on early assessment issues
8 so we can reduce the demand for basic skills.

9 SENATOR PADILLA: So, you're looking at it;
10 you're talking about it; you're discussing it. It's on your
11 mind.

12 Is there anything specific that's being done
13 right now, or that you have proposed to be done?

14 MR. HERNANDEZ: There's a lot of model programs
15 out there, but what we're doing right now is, we're doing a lot
16 of research to see what we can do around a system-wide program.

17 SENATOR PADILLA: Okay.

18 MR. HERNANDEZ: Trust me. I wish I could look at
19 you right now and say we've got the answers in the back pocket,
20 and we're going to start implementing tomorrow. But we're not
21 there yet.

22 This is a problem that's been created for many
23 years, and we're going to do our best to address that.

24 SENATOR PADILLA: Okay, so that addresses the
25 question about students coming into the system.

26 In some of our supplementary materials, we've got
27 statistics such as, 10 percent of the students who intend to get
28 a two-year degree actually do so in that two-year timeframe.

1 Only 26 percent of those in the community college system hoping
2 to transfer to a four-year university actually do so.

3 And when it comes to Latino students and African
4 American students, the statistics are actually much lower.

5 Is this something that is being discussed, being
6 considered, being studied?

7 MR. HERNANDEZ: Again, all those issues that
8 we --

9 SENATOR PADILLA: Are there specific initiatives
10 that are --

11 MR. HERNANDEZ: -- we identified as challenges
12 are the issues that are now incorporated in the strategic plan
13 that has specific goals and initiatives around each one of
14 those. And now we're in the implementation phase, which
15 includes, again, trying to bring all the key constituencies to
16 the table to help us shape and implement those solutions. And
17 they're not just the community colleges, the Community Colleges
18 Board of Governors and the districts, but it's also the labor
19 groups, the business groups, anyone who has a stake in community
20 colleges. And we're bringing them all together to make sure we
21 get their input and, frankly, their buy-in to some of these
22 things that we know we're going to have to do.

23 SENATOR PADILLA: The good part is, you mentioned
24 that it's not just goals but specific initiatives. Can you
25 share one or two of these initiatives?

26 MR. HERNANDEZ: I'd be more than happy to. In
27 fact if you want, I'd be happy to sit down with you and go
28 through our entire strategic plan. In fact, we would welcome

1 that opportunity.

2 SENATOR PADILLA: That would be great.

3 MR. HERNANDEZ: We could go through that entire
4 book. This is just the Executive Summary of our strategic plan,
5 but it has very specific goals and action items in there, and in
6 fact, again, we've just spent half the day today with the Board
7 of Governors getting an update on where we're at with
8 implementation on that. This is number one on our agenda, and
9 on top of mine, and look forward to sharing this with you.

10 SENATOR PADILLA: Okay. You're free to outline
11 at least one of the initiatives at this time, if you can.

12 MR. HERNANDEZ: One of the things, again, we
13 talked about earlier, what we're trying to do around the basic
14 skills is, indeed, see what we can do from a system-wide
15 strategy, frankly using best practices of other states about how
16 they're addressing the issue of basic skills.

17 Again, I wish I could say right now, we've got a
18 specific legislative program, or a specific initiative that's
19 ready to go, but we're not there yet. And frankly, we're not
20 there with a lot of these initiatives because we're going
21 through the consensus building process, frankly.

22 SENATOR PADILLA: It was mentioned earlier, the
23 concern about the cost of attending community colleges, not just
24 text books but specifically fees. The last several years has
25 brought about a spiking up and down here of fees. They were
26 dramatically increased a couple of years ago for two years in a
27 row. This current fiscal year, they were reduced. And the
28 Governor's proposed budget for next year proposes to increase

1 them yet again.

2 MR. HERNANDEZ: No, it would keep them at the same
3 level of \$20.

4 SENATOR PADILLA: Well, in either case, what can
5 you --

6 MR. HERNANDEZ: And we thank the Senators for
7 that, by the way.

8 SENATOR PADILLA: -- from your perspective --
9 you've been on the board for a little bit now -- the perspective
10 on stabilization of the fees? Would you be willing adopt some
11 sort of policy that provides some sort of security or assurances
12 for students into the future, and not just driving on a
13 year-to-year basis?

14 MR. HERNANDEZ: I think if we're going to have
15 some kind of consistency in the fees, that would be the best.
16 But I'm also a realist, and knowing that this is part of a
17 budget negotiation here in this State Capitol that they have to
18 go through.

19 Again, I look at the enrollment fees and text
20 books from a family viewpoint. The fees are probably never
21 going to be low enough to make everybody happy, but if you can
22 have consistency somehow around those fees, I think that helps
23 for their financial planning at a family level.

24 SENATOR PADILLA: But there's currently no sort
25 of mechanism to provide that consistency, even if it's an
26 increase, sort of a gradual, predictable increase from year to
27 year.

28 Right now, you're crossing your fingers every

1 budget time.

2 MR. HERNANDEZ: We are. And in fact, it's
3 probably one of the things we'd love to visit with the Governor
4 and the Legislature on, is developing a compact for community
5 colleges similar to what happened with CSU and UC. We don't
6 have that kind of compact right now. Perhaps we need to kind of
7 go take a look at that.

8 SENATOR PADILLA: I know that the fees and their
9 unpredictability has been one of the factors in the student
10 population not having grown in recent years, as was originally
11 projected.

12 MR. HERNANDEZ: I think that's part of it.

13 SENATOR PADILLA: Another part of it is a lack of
14 outreach funding.

15 Care to comment.

16 MR. HERNANDEZ: Well again, as we talked about
17 earlier, I think each one of the districts have the ability to
18 kind of target their own resources towards outreach and
19 marketing.

20 We try the best we can to encourage that along
21 the way, but it's really their call as to how much effort they
22 want to put towards that.

23 But again, I think most of them are doing a
24 pretty good job because at the end of the day, their budgets are
25 driven by butts in seats. You know, they need to get their
26 enrollment dollars, or enrollment up, so they are out there,
27 trying to do the best they can to try and encourage students to
28 come.

1 Now, with that said, I think there's also a role
2 for the system office to work with major employers, like health
3 care, and some of these other major employers, to see what we
4 can do to communicate to those constituencies that, indeed,
5 community college is a place where you can go and learn and
6 enhance your skills to achieve better career opportunities.

7 SENATOR PADILLA: Is there or is there not a line
8 item in the state budget for outreach? And I guess it wouldn't
9 be done at the local level. It would be for the Board of
10 Governors.

11 MR. HERNANDEZ: Their allocation, yeah.

12 There is not. There is not a specific line item
13 for outreach that I'm aware of.

14 CHAIRMAN PERATA: It was cut two years ago.

15 SENATOR PADILLA: With an opportunity to
16 reinstate it.

17 CHAIRMAN PERATA: Sure.

18 SENATOR PADILLA: I guess that's where I'm trying
19 to get.

20 Would you be an advocate for asking this Governor
21 to reinstate that?

22 MR. HERNANDEZ: Well again, I need to take a look
23 at that in the context of the full budget. I mean, if it's one
24 thing between putting more dollars towards outreach and putting
25 more dollars towards career tech or basic skills, I'd probably
26 put it more towards the basic skills and career tech.

27 SENATOR PADILLA: That's a great segue to my next
28 question. We discussed earlier, again, your information made

1 reference to the '05-06 budget and a pool of monies made
2 available to not just local community colleges, but partnerships
3 at the local level for this vocational ed and training for a
4 variety of purposes.

5 Are there any systems for metrics or
6 accountability for how those monies are implemented to actually
7 track results?

8 MR. HERNANDEZ: We're developing those
9 accountabilities and those metrics right now. What we're trying
10 to do with our new Vice Chancellor of Workforce Training, who
11 came to us from the Department of Labor, the Labor Agency, was
12 again, getting back to a previous point, trying to drive those
13 dollars towards the jobs that are needed now.

14 And I think at the end of the day, one of the
15 best ways to find out if indeed we're successful in that is that
16 we don't hear comments that we're hearing from some other
17 employers that, you know, "I've got jobs. Where are the
18 people?"

19 If we can do a better job of matching up the
20 skills with the jobs available, then I think we've succeeded.

21 Now, broader speaking, we are indeed developing,
22 again, driven a lot by AB 1417, more metrics around how those
23 dollars are used, and being better at defining what success
24 looks like.

25 SENATOR PADILLA: Another area, we're not going
26 to solve it today, but so you know that it's on my radar and a
27 concern, I've heard too many anecdotes back at home, similar to
28 the K-12 situation, where there's a debate between credentialed

1 and noncredentialed teachers. And where noncredentialed
2 teachers seem to be concentrated, and equity and educational
3 resources at that level.

4 When it comes to the community college system,
5 there is a concern -- surprise, surprise -- the community
6 college in my district about full-time faculty versus part-time
7 faculty.

8 Again, is this being discussed at the board
9 level?

10 MR. HERNANDEZ: Absolutely. There's a lot of
11 discussion --

12 SENATOR PADILLA: Is it part of the strategic
13 plan?

14 MR. HERNANDEZ: Oh yeah. There's a lot of
15 discussion being talked about it, because, you know, there's
16 always that challenge of where do you find the right balance?
17 And right now, there's almost a mandate about how many full-time
18 versus part-time faculty you have to have at a community
19 college.

20 I'm always kind of wary of hard numbers, because
21 what you need in a community college in Los Angeles is going to
22 be very different than what you need in a community college in
23 Bakersfield, and what have you.

24 And also, how do we encourage nurse technicians
25 and others to want to come in and work on a part-time basis if
26 there's some hard and fast rules that preclude them from coming
27 in?

28 So, there's issues out there we need to take a

1 look at.

2 SENATOR PADILLA: It may be hard to find the
3 right balance, but if you step back and look at the global
4 picture, we can recognize there's significant imbalance from
5 campus to campus and system to system.

6 MR. HERNANDEZ: I agree.

7 SENATOR PADILLA: You didn't answer my question,
8 whether or not that's addressed in the specific plan or not?

9 MR. HERNANDEZ: It is. It is, definitely.

10 SENATOR PADILLA: Just two more questions. One
11 is, the specific plan, again. I haven't had a chance to be
12 briefed on it. I invite you to my office.

13 MR. HERNANDEZ: We're making the rounds with all
14 the new Members.

15 SENATOR PADILLA: Does it address a capital
16 program for the community college system as a whole? Are we
17 building sufficient capacity for a student population in the
18 next 10, 20 years?

19 MR. HERNANDEZ: Well, we could never have enough
20 money, but I think we guesstimate that there's I want to say \$11
21 billion in current need for facilities across the state.
22 Obviously, the Prop. 1(D) gave us a big down payment on that,
23 but we've got a long way to go.

24 This addresses kind of the systems towards that,
25 but it doesn't -- this is not a capital improvement plan.

26 One of the things that again I challenged our
27 staff today on is, given that we do have Prop. 1(D) money, and
28 bond money from other years, and also know that a lot of

1 community colleges around the state passed their own bonds, are
2 we utilizing those dollars in the most proper way, so to speak?
3 Are we looking at the most important things first, and building
4 them the right way?

5 And frankly, you know, one of the things I asked
6 about our folks today is, there are things we can do to provide
7 incentives to some of these community colleges to incorporate
8 green building standards into their design, and particularly
9 focus on issues like energy efficiency without driving up the
10 cost of the buildings too significantly.

11 SENATOR PADILLA: You make your money back in the
12 long run.

13 MR. HERNANDEZ: Yeah, exactly.

14 SENATOR PADILLA: And my last point, and I
15 appreciate the time, Mr. Chair, is just to reiterate
16 Mr. Cedillo's comment earlier about, and I'll be more direct
17 about it, AB 540 students and the need to further assist them in
18 the community college system.

19 MR. HERNANDEZ: I'll take that back.

20 I look forward to working with you, Senator.

21 SENATOR PADILLA: Thank you.

22 CHAIRMAN PERATA: Anyone in the audience feel
23 compelled to come up, yea or nay? Seeing none.

24 SENATOR ASHBURN: I'll make a motion.

25 CHAIRMAN PERATA: We have a motion to recommend
26 confirmation.

27 I just want to drill home the point about the
28 federal aid forms. It would seem to me that if the Board of

1 Governors were to, I don't know how, I guess you could mandate
2 or however you do it, but it seems to me that outreach at the
3 various campuses of the various colleges consisted of nothing
4 more than talking to students about their eligibility, and how
5 you fill out the forms.

6 There's a huge windfall of money there. Whatever
7 we're doing, 36 percent is just flat out failing under any
8 system.

9 So, I would encourage you to do that. If it
10 requires something from the Legislature to do, you know,
11 micromanaging, or maybe the Budget Committee when they get their
12 arms around it, the Chancellor, they can talk with him, but if
13 you take away anything from today --

14 MR. HERNANDEZ: I will.

15 CHAIRMAN PERATA: -- do that.

16 I don't think it's lost on anybody that the fact
17 you work with one of the world's largest banks -- now we're
18 asking for money -- but the fact of the matter is, you've got
19 your foot in a different world view, and that's important. And
20 I think taking that information, and the prestige, and just the
21 employment base to the bank alone, you know, the bank has needs
22 for tens of thousands of employees, and a lot of them are at the
23 skill level that would come out, rightfully, of a community
24 college.

25 MR. HERNANDEZ: Absolutely.

26 CHAIRMAN PERATA: I'm so smart.

27 MR. HERNANDEZ: Thank you for the recognition of
28 Bank of America, too.

1 CHAIRMAN PERATA: That's okay. They have
2 something I want.

3 [Laughter.]

4 CHAIRMAN PERATA Please call the roll.

5 SECRETARY WEBB: Cedillo.

6 SENATOR CEDILLO: Aye.

7 SECRETARY WEBB: Cedillo Aye. Dutton.

8 SENATOR DUTTON: Aye.

9 SECRETARY WEBB: Dutton Aye. Padilla.

10 SENATOR PADILLA: Aye.

11 SECRETARY WEBB: Padilla Aye. Ashburn.

12 SENATOR ASHBURN: Aye.

13 SECRETARY WEBB: Ashburn Aye. Perata.

14 CHAIRMAN PERATA: Aye.

15 SECRETARY WEBB: Perata Aye. Five to zero.

16 CHAIRMAN PERATA: Five-zero, congratulations.

17 MR. HERNANDEZ: Thank you.

18
19 [Thereupon this portion of the
20 Senate Rules Committee hearing
21 was terminated at approximately
22 3:24 P.M.]

23 ---ooOoo---
24
25
26
27
28

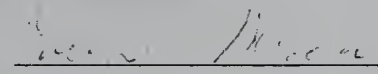
1 CERTIFICATE OF SHORTHAND REPORTER

2
3 I, EVELYN J. MIZAK, a Shorthand Reporter of the State
4 of California, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing transcript of the Senate Rules Committee hearing was
7 reported verbatim in shorthand by me, Evelyn J. Mizak, and
8 thereafter transcribed into typewriting.

9 I further certify that I am not of counsel or
10 attorney for any of the parties to said hearing, nor in any way
11 interested in the outcome of said hearing.

12 IN WITNESS WHEREOF, I have hereunto set my hand this
13 2nd day of January, 2007.

14
15
16
17 
18
19 EVELYN J. MIZAK
20 Shorthand Reporter
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

APPENDIX



State and Consumer Services Agency

Rosario Marin
Secretary
915 CAPITOL MALL, SUITE 200
SACRAMENTO, CA 95814

African American Museum
Building Standards Commission
Consumer Affairs
Fair Employment & Housing
Fair Employment & Housing Commission
Franchise Tax Board
General Services
Insurance Advisor
Science Center
Seismic Safety Commission
Personnel Board
Public Employees' Retirement System
Teachers' Retirement System
Technology Services
Victim Compensation &
Government Claims Board

January 5, 2007

The Honorable Don Perata, Chair
Senate Rules Committee
State Capitol, Room 420
Sacramento, California 95814

Senate Rules Committee

JAN 05 2007

Dear Senator Perata:

Appointments

Thank you for the opportunity to share some of my views regarding my position as Secretary of the State and Consumer Services Agency. I look forward to the confirmation hearing on January 17th and stand ready to provide you and the committee members with any additional information requested.

Goals

1. Please provide us with a brief statement of goals. What do you hope to accomplish during your tenure as Secretary of the State and Consumer Services Agency (SCSA)?

As Secretary of the State and Consumer Services Agency, I have three goals:

1) "greening" the State owned and leased buildings throughout California; 2) increasing State contracting participation for small and Disabled Veteran Business Enterprises; and 3) providing responsive governmental services that meets the needs of the people.

2. As a result of natural turnover and an upcoming wave of retirements, many state agencies are facing or will soon face serious staff shortages. Please comment on the extent of this problem at SCSA. Does SCSA have a personnel succession plan in place? If yes, what are its key components?

With 35% of the State's civil servants 50 years of age or older, potential staff shortages are a reality that every department must face. As Agency Secretary, I have been actively pursuing succession planning since late last spring. Some departments within SCSA have succession plans currently in place, while others are in the process of developing their plans. I recently sent out a survey to all SCSA Directors to determine how this Agency can more effectively address succession planning from a statewide perspective and have set July 1st as goal to have all SCSA succession plans in place.

While I would like to review the survey results prior to determining the specific components of succession planning, I firmly believe that the following issues need to be addressed if we are to build a strong public sector work force: 1) increase recruitment practices; 2) explore ways to expedite the testing and hiring of new employees; 3) invest in education and training programs; 4) employ more leadership development within State service; and, 5) develop a more flexible retired annuitant program.

Department of Consumer Affairs (DCA)

- 3. Please provide data for any boards or commissions where approval of licenses or handling of consumer complaints are backlogged. What is the estimate of backlogged cases, and what actions are underway to clear up the backlogs?**

A chart is attached for your perusal.

- 4. Do new board members typically receive training? Is it mandatory or optional? If training is offered, is it handled out of DCA or by the individual boards and bureaus? Does DCA ensure that new members have ethics training and are aware of open meetings laws?**

New board members are required to attend training, pursuant to Business & Professions Code Section 453, regarding their functions, obligations and responsibilities as a board member. DCA offers this training four times a year, in different locations throughout the state. The training agenda does include a comprehensive presentation by DCA's Legal Office on ethics and the Bagley-Keene Open Meeting Act, as well as the disciplinary and enforcement process. Additionally, DCA provides extensive written resources and materials on the requirements of the Open Meeting Act.

- 5. Does DCA maintain attendance records of the various boards and commissions under its jurisdiction? Do you ever intervene in cases of recurring absentees?**

Historically, DCA has not maintained comprehensive attendance records for all boards; however, on January 10th the Director will request that each board begin providing attendance records that the department will monitor. Currently, attendance is recorded at each Board meeting and documented in the Board's minutes.

- 6. What is your view of the appropriate balance between public and professional members on DCA boards?**

The public is best served when board representation is balanced, providing both professional expertise and consumer representation. I believe that a public member majority provides for enhanced consumer protection.

Public Access to Government

7. How does SCSA manage its outreach efforts beyond its Internet presence? What resources does SCSA provide for non-English speakers?

I will assume that the reference to SCSA applies to the Department of Consumer Affairs and will answer accordingly. As an immigrant, I am very sensitive to the needs of California's non-English speaking population. DCA has worked diligently to make sure their services are provided to all consumers without barriers. DCA's Consumer Information Center's toll-free number has a Language Line that can translate consumer calls into 144 languages. The Center also has Spanish-speaking representatives on staff.

DCA publishes approximately 200 consumer publications. Many of these publications are available in several different languages, including Spanish, Chinese, Cambodian, Farsi, Hmong, Korean, Mandarin, Russian, Tagalog, Armenian, Thai, and Vietnamese.

DCA also conducts presentations to community-based organizations statewide including senior organizations, organizations that serve non-English speaking communities, and veteran's groups about consumer issues. DCA also distributes a quarterly Consumer Connection newsletter to approximately 1,000 community-based organizations and is currently working on translating this newsletter into other languages.

DCA has also participated in special events and festivals that are attended by non-English speaking audiences, such as the Vietnamese TET Festival, Pacoima Beautiful, the San Diego Hispanic Fraud Prevention Forum, the Korean American Consumer Summit, and the Los Angeles County Evans Community Fair. They also participated in the 16th California Capitol City Black Expo.

The Aurora Research Group conducted a Consumer Opinion study for the California Department of Consumer Affairs' Consumer and Community Relations Division in the Fall of 2005 in an effort to better serve consumers. Phase 1 consisted of 1,000 completed interviews with a statewide representative sample of California consumers and results are considered accurate to within +/- 3.1%, nineteen times out of twenty. In Phase 2, over 300 interviews were conducted with respondents from each of three underserved populations (Spanish-speaking, senior, and low-income).

DCA hosted the following three summits in the past year:

- *Teaming Up Against Identity Theft: A Summit on Solutions*

The February 23, 2006 California Identity Theft Summit was designed to arm Californians with education and training to better detect, respond to, and prevent the fastest-growing financial crime in our country.

- *Senior Summit: Protecting and Serving California's Aging Population*
On May 12, 2006 DCA convened local, state and federal agencies on a summit to address senior consumer protection issues. The Summit included two panel presentations, covering both the state and local approach to protecting senior consumers, along with interactive workshops.
- *California Cyber Safety Summit: Protecting Children Online*
On October 18, 2006, DCA presented the first ever Cyber Safety Summit: Protecting Children Online. Participants learned from experts about preventing the many dangers children face online and the strategies and resources to counter them by surfing safe, smart and legally.

- 8. Teleconferencing has become increasingly popular for meetings of DCA boards and commissions as a cost saving tool, and as a way to gather members who may not otherwise be able to attend. What policy direction have you provided on teleconferencing? How many boards and commissions use it and how often? What is done to ensure that the public's opportunity to observe and comment on proceedings is not compromised?**

According to DCA, teleconferencing has not been a popular option for board members for a variety of reasons. While it would appear that teleconferencing may be a helpful tool at times, most board members prefer being physically present to hear testimony, interact with other board members and listen to public comment. Because of the public noticing requirements, if a board member can not attend a meeting and would like to participate via teleconference, their location must be publicly noticed in advance and open to any member of the public (GC 11123). If a board member were sick and confined to his/her home and wished to participate via teleconference, their home address must be publicly noticed and open to the general public for the teleconference. Most board members would not care to participate under such circumstances.

To date, only one board has utilized the teleconferencing option to conduct board business.

- 9. Currently DCA boards and bureaus vary as to the detail available in their meeting minutes. For example, the Acupuncture Board publishes a short summation of their proceedings, while the Cemetery and Funeral Advisory Committee produces an exact record of each speaker. At their most recent board meeting, the Medical Board indicated that it intends to reduce the length of the board's published minutes by recording only action items. What level of detail do you believe is appropriate? Should minutes for meetings be consistent amongst DCA boards? Do you monitor the timeliness of the posting of minutes on DCA websites?**

DCA provides boards with some guidelines about what should be in the minutes; generally minutes should be a record of what occurred, what official actions were taken and how board members voted. Because the statutory nature of DCA boards establishes them as semi-autonomous, each board makes their own determination on what should be contained in the minutes. The Department has no statutory authority to override those board decisions and can not mandate how boards conduct business or what format must be used in minutes. I do believe, however, it would be very helpful for the Department to issue written recommendations regarding minute procedures and posting requirements.

Each board has different policies regarding the posting of minutes on its website. Generally speaking, most boards post minutes after they have been approved. Draft minutes could have inaccuracies or mistakes and I do not believe it is in the public interest to post information that may be confusing or misleading. Minutes are not approved until the following meeting and this can cause a delay of 2-4 months in the posting. There is no provision in the Open Meetings Act for a mail-in approval of minutes.

Bureau for Private Postsecondary and Vocational Education (BPPVE)

10. Do you intend to seek BPPVE's extension? Will you seek reform? What is your timetable?

As the Governor indicated in his veto message of AB 2810 (Liu), he supports meaningful protections for students of California's private postsecondary and vocational institutions and he wants to work with the Legislature to pass legislation early this year so that we can provide Californians with more educational options and give our students the protections they deserve. During the legislative interim, my staff worked closely with DCA to draft a legislative proposal to reform the statutes relating to BPPVE and that proposal is currently being reviewed by the Governor's Office. It has been well documented that the BPPVE program has always been problematic as statutorily created and that a legislative overhaul is necessary. I am confident that, together, we can accomplish meaningful reform to solve, once and for all, the problems that have existed since this program was created years ago.

11. The bureau currently operates the Student Tuition Recovery Fund (STRF), from which students may seek restitution of fees if their school shuts down. As of June 2005, the bureau reported that the nondegree account within the fund carried a \$1.9 million deficit and the board was three years behind in reimbursing claims. How does the bureau plan to ensure that the pending claims seeking reimbursement from the Student Tuition Recovery Fund are processed in a timely manner?

The Bureau continues to process claims in the order that they are received based upon the incoming quarterly assessments. Due to the reduced funding level in the non-degree account and the number of outstanding STRF claims, the Bureau can not ensure timely reimbursement of all claims, but will pay out all revenue available in the STRF's non-degree account to satisfy as many verified claims with the revenue available.

12. The bureau currently faces a backlog of applications and other administrative work. How do you reconcile the proposed hiring freeze with the backlog of claims?

The Bureau has prepared a plan to prioritize their workload, and will continue to perform critical tasks. The Department was required to implement a hiring freeze, in order to prepare for the Bureau's July 1, 2007 sunset date and is required by the provisions of civil service to place employees by seniority in equivalent positions if the Bureau sunsets and its positions are eliminated. The Department's plan to accommodate the potential sunset and layoff was approved by the Department of Personnel Administration, and it will take approximately six months to complete all of the steps. During this process, the Department will identify positions for Bureau staff to transfer to, but will keep as many staff at the Bureau as possible until July 1, 2007 so that the Bureau can still operate.

Department of General Services (DGS)

13. The law requires DGS to issue instructions on information technology procurement (IT), known as an information technology procurement management memo, on or before January 1, 2007. What is the status of this memo? What policy direction will you provide to improve the management of IT procurement?

Public Contract Code Section 12104(d) (SB 954, Chapter 556, Statutes of 2005) requires the DGS to issue a Management Memo (MM) setting forth uniform standards for information technology (IT) procurement. This MM has been issued and provides the vision for IT procurements as follows:

- The State obtains IT products and services that meet its needs and advance its policy goals, in a timely fashion, within its budget, and with the least possible administrative burden.*
- Procurements are conducted with integrity and in a manner consistent with the State's requirements and policies, including its commitment to small businesses (SB) and Disabled Veteran Business Enterprises (DVBES).*
- The State harnesses its expertise and purchasing power to obtain the best values available in the marketplace.*
- The benefits of competition are maximized.*
- The State is appropriately protected from risk.*

In addition, the uniform standards that will apply throughout the procurement process are:

- *Procurements shall be conducted in a manner consistent with applicable laws, regulations, policies, and procedures.*
- *Procurements shall be conducted in a professional manner that promotes direct, straightforward communication with the supplier community.*
- *Contracting opportunities shall be enhanced, whenever possible, for eligible certified SBs and DVBEs. Requirements for SB /DVBE participation are in Chapter 3 of State Contract Manual (SCM) Vol. 3.*
- *Procurements and projects shall comply with Americans with Disabilities Act (ADA) requirements.*

14. The 2004 California Performance Review Commission recommended integration and synthesis of DGS's vast network of procurement laws. It described DGS' methods as governance by management memo. Do you intend to undertake a procurement overview or request procurement changes?

While the California Performance Review Commission's recommended integration and synthesis of the procurement laws was commendable, the State statutes adopted by the Legislature and signed by the Governor currently govern DGS' procurement. These statutes form the skeleton for how we conduct procurements and are further clarified by the State Contracting Manual through Management Memos issued by the DGS on a variety of matters.

Past attempts at wholesale statutory changes have not met with success (proposed California Acquisition Reform Act of 1996 and 1997). It has been found that more specific, targeted changes are better received, and we will continue to identify issues and areas that would be appropriate for legislative change.

Department of Fair Employment and Housing (DFEH)

15. The May 16, 2005, letter from DFEH's then-recently appointed director indicated that the Communication Center that receives all initial incoming calls for help from the public had been understaffed, unmanaged, the equipment and software were obsolete, and there was no ability to monitor and track call volume. At the time, the director indicated that she intended to improve the Communication Center. Please update the committee on any changes and improvements to DFEH's Communication Center. Has the number of initial calls for assistance and the number of intake interviews at district offices gone up or down in the last few years? Have additional case processing positions resulted in measurable changes? If so, how?

The Communication Center is the first point of contact between a complainant and the DFEH. A complainant calls the 800 number for the Communication Center in order to schedule an intake appointment in a district office where an investigator determines whether a complaint for investigation will be filed. In August of 2004, the new DFEH Director noted that the Communication Center had several vacancies and an obsolete telephone system. There had been no previous monitoring of call volume or wait times, and callers experienced long wait times on hold, calls were being dropped, and callers received busy signals. Since that time, improvements to the Communication Center have been a priority.

DFEH has replaced its obsolete telephone equipment and software with new state-of-the-art equipment that allows the department to monitor a variety of activities, including the volume of calls, wait time, and length of calls. The average wait time has been significantly reduced since the new system was installed and it allows the department to monitor conversations between callers and the department staff for quality assurance.

The system automatically generates reports that are distributed on a weekly basis so that all levels of management are continuously informed of the Communication Center activity.

All of the Communication Center vacancies have been filled on a priority basis and the department makes every effort to provide continual education and training to ensure that staff is current on the laws under their jurisdiction.

With respect to the number of intake interviews conducted by the District Offices, the following information demonstrates the total number of interviews scheduled (booked) and total number of interviews conducted for the three prior fiscal years. Obviously, more than 50% of the individuals who scheduled an interview appointment failed to attend.

Fiscal Year	Interviews Booked	Interviews Conducted
2003-04	30,380	12,793
2004-05	32,449	14,040
2005-06	30,303	12,661

DFEH's budget was augmented with 13 additional positions in July 2006. Eight of those positions were investigator positions. DFEH is still in the process of filling some of those positions. The new investigators who have been hired have received comprehensive training on the law and are beginning to conduct investigations while being given on-the-job training. Because the new investigators are not yet able to work a full caseload independently, it is too soon to realize any measurable results.

16. Please update the committee on DFEH's Volunteer Mediation Program that offers complainants and respondents in employment discrimination cases the option of participating in mediation, instead of referring the case to DFEH's enforcement unit for investigation. How many cases have been settled using volunteer attorney mediators? Is this program cost-effective? Is it fair to both parties?

In January 2005, the law was changed to authorize the Fair Employment and Housing Commission (FEHC) hearing officers to conduct pre-accusation mediations on complaints filed with the DFEH. However, due to staffing shortages at the FEHC, the hearing officers were only able to conduct mediations on a limited basis and for a short period of time. They ceased conducting mediations for DFEH in May, 2006. Up until that time, they had successfully settled six complaints for DFEH.

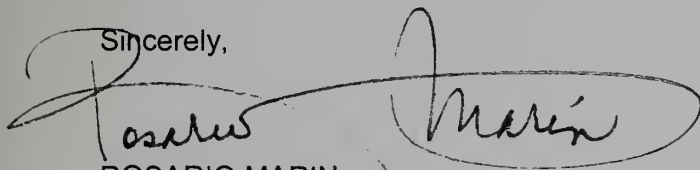
Due to the FEHC's limitations, DFEH established a volunteer mediation program, soliciting volunteers from the private mediator community to mediate complaints prior to investigation at no charge to the DFEH or the parties. In August of 2005, DFEH trained 12 volunteer mediators who have been mediating complaints for DFEH on a limited basis, depending on their availability. Since January 1, 2006, the volunteer mediators have successfully settled 25 complaints for DFEH.

The cost of the volunteer mediation program is about \$15,516 per year. For each settled case, the DFEH receives \$540 from the Equal Employment Opportunity Commission (EEOC). Since January 2006, the program cost DFEH \$14,223 and DFEH received \$13,500 from EEOC for the settled cases.

The mediation program is fair to both parties, because it is voluntary and the mediator is a neutral party. Both the complainant and the respondent must voluntarily agree to mediate the case before the case is referred to a mediator.

I have been extremely honored to have been appointed to this position by Governor Schwarzenegger and should I be confirmed, I will serve the people of the State of California with honesty, integrity and pride. Thank you again for your consideration, I hope these responses are helpful as you consider my confirmation. Should you or your staff have any questions or need further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosario Marin", with a large, stylized flourish extending from the end of the signature.

ROSARIO MARIN
Secretary, State and Consumer Services Agency

Attachments

DEPARTMENT OF CONSUMER AFFAIRS

LICENSING BACKLOG REPORT
AS OF 12/15/06

PROGRAM	BACKLOG		UPDATE AS OF 12-15-06
	Yes	No	
BOARDS			
Architects		X	The Architects Board's 12/15/06 report indicates the backlog associated with the California Supplemental Examination (CSE) has been eliminated. Architects was able to schedule an additional 90 candidates for the CSE administrations in January and February 2007. An extra administration is scheduled for March, which will accommodate approximately another 150 candidates. In addition, Architects will continue its current strategy of recruiting additional architect commissioners for panels to accommodate additional candidates at each CSE administration.
Accountancy	X		The Accountancy Board's 12/15/06 report indicates an increase in individual CPA licensure applications from 855 to 949 since the 11/15/06 report. Accountancy's current year plans to address the licensing backlog is to continue to implement a variety of operational actions, such as redirection and postponing critical projects to accelerate their licensing output. Accountancy reports that these strategies will continue to keep in check processing times that act as a barrier to individuals entering the accountancy profession in California.
Landscape Architects		X	
Athletic Commission		X	
<i>Athletic - Neuro</i>		X	
<i>Athletic - Pension</i>		X	
Barbering & Cosmetology		X	
Behavioral Science		X	
Contractors	X		The CSLB's 12/15/06 report indicates the Board continues to have processing and scheduling backlogs in its Criminal Background (CBU) and Examination Units. The CBU's review process of applicants for criminal background review has increased from 4.5 months to 5 months, which far exceeds their normal 30-day processing time frame. CBU indicates the increase is attributed to a recently vacant position and is working to fill this position as soon as possible. The Examination Unit continues to have scheduling delays of 3 to 15 weeks depending on the center. There has been a five week decrease to Oakland's test center and a decrease to the Sacramento test center is expected in the near future. The San Jose test center is now operational. However, testing is no longer being scheduled at the Norwalk test center (temporary test center leased through Caltrans expired, December 15, 2006), causing increased wait times of up to nine weeks. The CSLB is continuing to work with DGS through DCA to negotiate a lease for its Norwalk test center.
Dental Board		X	
Dental Auxiliaries		X	
Geologists & Geophysicists		X	
Guide Dogs		X	
Medical Board of CA		X	
Registered Dispensing Opticians		X	
Acupuncture		X	
Physical Therapy		X	
Physician Assistants		X	
Podiatry		X	
Psychology		X	
Respiratory Care		X	
Speech		X	
Occupational Therapy		X	
Optometry		X	
Osteopathic Medicine		X	
Pharmacy		X	
Professional Engineers		X	
Registered Nurses		X	
Court Reporters		X	
Structural Pest		X	
Veterinary Medicine		X	
Vocational Nurses		X	
Psychiatric Technicians		X	

DEPARTMENT OF CONSUMER AFFAIRS

LICENSING BACKLOG REPORT
AS OF 12/15/06

PROGRAM	BACKLOG		UPDATE AS OF 12-15-06
	Yes	No	
BUREAUS, PROGRAMS, DIVISIONS (Org 1111)			
Arbitration Certification		X	
Hearing Aid Dispensers		X	
Security & Investigative Services:			
<i>Private Security Services</i>		X	
<i>Private Investigators</i>		X	
Bureau for Private Postsecondary & Vocational Education:	X		<p>The BPPVE's 12/15/06 report indicates the following changes in licensing backlogs in specified school approval operations:</p> <p>(1) decrease from 600 to 550 pending certifications of authorizations are not being processed with the 30-day processing timeframes</p> <p>(2) decrease from 11 to 9 pending agent permit applications are waiting for Department of Justice fingerprint clearance</p> <p>(3) an increase from 79 to 80 unprocessed new institutional applications</p> <p>(4) elimination of the change of ownership applications backlog</p> <p>(5) no change in the 4 pending applications to add new programs to existing approved schools</p> <p>(1) no change in the 6 pending add branch location applications</p> <p>(2) decrease from 11 to 9 pending add satellite location applications</p> <p>(3) an increase from 12 to 13 pending change school location applications</p>
Electronic & Appliance Repair		X	
Automotive Repair -		X	
<i>Smog Check Program</i>		X	
<i>Consumer Assistance Program</i>		X	
Home Furnishings & Thermal Insulation		X	
Administrative & Information Services Division		X	
Communications & Education Division (Public Affairs)		X	
Consumer & Community Relations Division		X	
Division of Investigations		X	
Telephone Medical Advice Services		X	
Cemetery		X	
Funeral		X	
Naturopathic Medicine		X	
Privacy Protection			

DEPARTMENT OF CONSUMER AFFAIRS

**CONSUMER COMPLAINT BACKLOG REPORT
AS OF 12/27/06**

PROGRAM	BACKLOG		COMPLAINT BACKLOG AS REPORTED ON 12-27-06
	Yes	No	
BOARDS			
Accountancy	X		The Accountancy Board indicates that 69 consumer complaints are backlogged. Accountancy has employed numerous actions to control the growth in open complaints over the past several years, such as redirecting less technical matters to analytical staff. Accountancy has also requested three positions in FY 07/08 to meet the ongoing increase in Enforcement workload. The FY 2007/08 Governor's Budget includes three enforcement positions to help address this issue.
Architects	X		The California Architects Board reports that it has reduced its pending cases from approximately 300 to 200, but there are some (approximately 50) old cases that are languishing beyond normal processing times. They are redirecting to address this backlog of 50 cases as quickly as possible.
Landscape Architects	X		Landscape Architects indicates that approximately 26 enforcement complaints are backlogged. Landscape has a 0.6 position assigned to clear up the backlog and plans to manage the caseload better by establishing a reporting and tracking system to maintain current status of each case.
Athletic Commission		X	
Athletic - Neuro		X	
Athletic - Pension		X	
Barbering & Cosmetology		X	
Behavioral Science	X		The Board of Behavioral Sciences indicates that approximately 40 consumer complaints are backlogged. The backlog of consumer complaints is being addressed by redirection of enforcement staff. In addition, Behavioral Sciences has submitted a BCP to hire two AGPAs for its Enforcement Unit. The FY 2007/08 Governor's Budget includes two enforcement positions to help address this issue.
Contractors		X	
Dental Board		X	
Dental Auxiliaries		X	
Geologists & Geophysicists			
Guide Dogs		X	
Medical Board of CA		X	
Registered Dispensing Opticians		X	
Acupuncture		X	
Physical Therapy		X	
Physician Assistants		X	
Podiatry		X	
Psychology		X	
Respiratory Care		X	
Speech		X	
Occupational Therapy	X		The Occupational Therapy Board indicates it has 37 backlogged consumer complaints dating back to FY 04-05. Limited-term help was hired to address increased workload. The FY 2007/08 Governor's Budget includes one enforcement position to help address this issue.
Optometry		X	
Osteopathic Medicine	X		The Osteopathic Medical Board indicates approximately 40 complaints are backlogged. Osteopathic is currently 3 weeks behind in processing new complaints due to only one Analyst working complaint intake and disciplinary workload. The Department will work with the Board and provide assistance to address the backlog.
Pharmacy		X	
Professional Engineers		X	
Registered Nurses		X	
Court Reporters		X	
Structural Pest		X	
Veterinary Medicine		X	
Vocational Nurses Psychiatric Technicians	X		The Board of Vocational Nursing and Psychiatric Technicians report that during FY 2005/06 the Board received 2,461 complaints. As of June 30, 2006, the Board had 1,789 complaints pending. To help address this problem, the Board recently reclassified a Management Services Technician to a Staff Services Analyst. Additionally, two BCPs were submitted for FY 2007/08 which were approved by DOF. The Board requested a total of 8.7 positions (2.5 AGPA positions; 4.0 SSA positions; and 2.2 MST positions).

DEPARTMENT OF CONSUMER AFFAIRS

CONSUMER COMPLAINT BACKLOG REPORT
AS OF 12/27/06

PROGRAM	BACKLOG		COMPLAINT BACKLOG AS REPORTED ON 12-27-06
	Yes	No	
BUREAUS, PROGRAMS, DIVISIONS (Org 1111)			
Arbitration Certification		X	
Hearing Aid Dispensers		X	
Security & Investigative Services:		X	
<i>Private Security Services</i>		X	
<i>Private Investigators</i>		X	
Private Postsecondary	X		The Bureau for Private Postsecondary & Vocational Education reports it has 15 backlogged consumer complaints. Private Postsecondary indicates they should be able to address their complaint backlog by the end of Jan 2007, with existing resources.
Electronic & Appliance Repair		X	
Automotive Repair -		X	
<i>Smog Check Program</i>		X	
<i>Consumer Assistance Program</i>		X	
Home Furnishings & Thermal Insula		X	
Administrative & Information Service		X	
Communications & Education Divisi		X	
Consumer & Community Relations		X	
Division of Investigations		X	
Telephone Medical Advice Services		X	
Cemetery		X	
Funeral		X	
Naturopathic Medicine		X	
Privacy Protection		X	

Randal J. Hernandez

Member, California Community Colleges Board of Governors
Responses to Senate Rules Committee Questionnaire

Statement of Goals

1. *Please provide a brief statement outlining the goals you hope to accomplish while serving as a member of the California Community Colleges Board of Governors. Please be specific.*

Principally, my goal is to advance the strategies and initiatives incorporated in the System Strategic Plan that include:

- A. College Awareness and Access
- B. Student Success and Readiness
- C. Partnerships for Economic and Workforce Development
- D. System Effectiveness
- E. Resource Development

In addition, my goal is to provide leadership in the promotion of the importance of community colleges to long-term student success; the growth of regional economies; and, the civic enhancement of local communities. As a member of the board, it will also be a primary goal to ensure that budget resources are being utilized in the most effective manner on behalf of the state and students; and, when necessary, be an advocate for additional budget resources. Finally, my goal is to strengthen the relationship between community colleges and the private sector as we prepare the workforce of today to meet the demands of the growth industries of tomorrow.

Preparing for the Future

The California Community Colleges Board of Governors recently approved a long-term strategic plan that is intended to guide system priorities and investments. Among its objectives the plan seeks to improve access and success, and enhance the economic and social values the colleges provide to students and the state. The plan establishes goals, a common set of strategies, measurable outcomes, and methods for monitoring implementation.

2. *What are the major challenges facing community colleges and how would you prioritize them?*

DEMOGRAPHIC CHANGE: In addition to expansive Latino and Asian population growth, the state will experience a doubling of the number of senior citizens and 45 percent increase in the population of California's inland areas by 2025.

EDUCATIONAL CHALLENGES / BASIC SKILLS: Over half of all incoming Community College students need basic skills math and English programs. The need for basic skills programs will likely increase as California's population continues to grow.

ALIGNING STATE EDUCATIONAL POLICIES: Each of California's five segments of education— K-12, Community Colleges (CC), California State University (CSU),

Senate Rules Committee

JAN 08 2007

Appointments

University of California (UC), and private/independent colleges— have separate governing and administrative structures. We must continue to find ways to increase the flow of students from high school to college and from CC to 4-year institutions utilizing new strategies for concurrent enrollment and alignment of courses to ensure students a clear pathway from diploma to their doctorate.

CAPACITY FOR CHANGE: Community Colleges need to continue to serve as a center of change and innovation responding to educational challenges and private sector workforce demands. We must emphasize linkages between career and basic skills courses, improve the visibility, accountability and policy effectiveness of the System; evaluate proposed and existing public policy that limits the flexibility and effectiveness of the Colleges; and, provide leadership in shaping, evaluating and ensuring implementation of policies. We must also ensure that CC System and college resources are effectively managed in the best interests of the students. And, when necessary, advocate for increased resources consistent with the growth of the student population.

3. *What changes are required to accomplish the goals identified in the strategic plan? How does the board plan to work with key constituencies to implement these changes?*

There are no specific changes required to implement the Strategic Plan within the current shared governance system. The Board of Governors (BOG) and System Office will need to continue to take a leadership role in **engaging** a broad-cross section of constituencies (public, private, labor, etc.) to effectively implement that plan's 5 strategic goals. The Strategic Plan will be implemented through five Strategic Goals: College Awareness and Access; Student Success and Readiness; Partnerships for Economic and Workforce Development; System Effectiveness; and Resource Development. The BOG and System office have provided leadership in its extensive outreach leading to the development of the strategic plan (the first of its kind). The plan will guide the BOG in all its actions including budgetary requests, capital planning, program development, shared-governance engagement, among other system-wide efforts.

4. *How will the board monitor and report on the progress made in meeting the strategic goals outlined in the system's strategic plan? Will the board have the authority to intervene if sufficient progress is not made by colleges?*

The Board receives regular updates from staff on strategic plan progress. Also the Board has created an Implementation Oversight Committee (IOC) consisting of a broad diversity of representation from within and outside the system, including representatives from the Legislature, the Governor's Office and the private sector. The IOC will meet at least twice per year with reports provided to the Board. The IOC first convened in June 2006 and again in December 2006. While the Board may have limited authority, due to the bilateral governance system, to directly intervene if sufficient progress is not being made at the college level, it does have the ability to strongly encourage progress by continuously promoting the importance of the plan,

recognizing model programs and progress, and offering guidance at the local level when progress is not being met.

5. *Sometimes the state expects colleges to make improvements in areas such as transfer rates, while local campuses place a higher priority on increasing the number of English language development classes. What work needs to be done to balance the need of addressing long-term strategic system-wide goals with locally driven priorities? What governance changes would help improve this balance?*

Given the great diversity of the state, the goals and objectives of incoming students need to be continuously assessed at the local college level to ensure programs and courses reflect that need. If entering students predominantly are seeking coursework to improve their immediate workforce opportunities (and local employers are also seeking employment applicants in specific segments), then improvement in transfer rates may not adequately reflect local objectives. While the transfer of students from CC to 4-year institutions will always be a community college priority, the System Office should take a leadership role in assessing trends in the goals and objectives in the overall community college student body and report findings to the State as well as offering policy, program and budgetary changes required to meet the challenges of the diverse student population. Given the rapidly changing student population, a review of the governance structures of all higher education systems may be warranted to ensure statewide goals are achieved while ensuring local priorities are achieved.

Developing Basic Skills of Community College Students

Development of strong basic skills is the foundation for student success at a community college. Currently it is estimated that at least 75 percent of all incoming community college students require remediation or basic skills development to complete college-level work in mathematics and English. This year the state budget appropriated \$30 million in new funding to address this growing need. The budget also appropriated \$10 million to support remediation programs at community colleges for high school students who failed the California High School Exit Exam. The community college chancellor's office is responsible for dispersing these funds to colleges.

6. *Is the board acting to ensure that more community college students are completing basic skills classes and moving into degree-applicable coursework? If so, how?*

Strategic Plan Goal Area B specifically identifies seven strategies with "Basic Skills as the foundation for Student Success" and also includes:

- Assessment and Placement
- Articulation with K-12
- Intersegmental Transfer
- Teaching and learning Effectiveness
- Degrees and Certificates
- Innovative Practices in Workforce Education

To address all strategies under Goal Area B, a Goal Area Implementation Team (GAIT) has been formed. This team has formed an Action Plan Group (APG) for each strategy and the APG will prepare an Action Plan to address the strategy assigned. Our GAIT, in consultation with Action Plan Group members, concluded that the areas of greatest priority at this time are Strategies B1, Basic Skills as the Foundation for Student Success and Strategy B2, Assessment and Placement.

At the summer Board of Governors Retreat/Study Day, the plans for addressing these strategies were summarized and supported by the BOG. The proposed plan for “basic skills strategies” is to devote several months to a review of the literature and best practices to determine how best to increase retention and success rates of basic skills students (challenges faced by community colleges across the country). To reach the first milestone, the plan is to examine how people learn and what teaching methodologies, strategies, and support structures best promote student engagement in the learning process in basic skills or what works best to facilitate increase performance levels. What programmatic features are essential to effective basic skills programs, demonstrated by data and evidence of learning, and how can improved performance be fostered through efforts across the curriculum and other kinds of institution-wide support. The APG is providing goals, parameters and timelines for the research and an Academic Senate subgroup is drafting recommendations on research necessary for our literature and best practices review.

Over the coming year, the System Office will assess findings that will be analyzed with board participation and input, and features or components of exemplary programs will be drafted. We then will communicate findings and through further discussion with faculty and staff refine descriptions of features identified. After careful analysis of information, a number of key features of effective programs will then be modeled so that colleges can select and design components for local implementation and provided available funding.

As discussed above, continuously assessing if students are seeking basic skills improvement to prepare for college transfer, job readiness or other interest/need will assist greatly in the development of exemplary programs and coursework.

7. *What can the board do to build the colleges' capacity to provide basic skills courses with existing resources? What can it do to evaluate the effectiveness of these offerings and programs? Are there any numerical goals established to reduce the number of students requiring basic skills education?*

As described in the Strategic Planning effort above, providing information on model programming and effective coursework will be vital to assisting local colleges in developing local basic skills programs within existing resources. However, given the growing demand, appropriate funding will likely need to be requested to expand and/or improve basic skills coursework including implementation of programmatic features identified that address size of program and staffing needs and continued

faculty/staff development efforts. Following implementation, students' successful completion of ESL/Basic Skills courses and their coursework continuation in to degree credit courses, completion of certificates/degrees and transfer to four-year institutions will be evaluated and reported to determine their effectiveness.

The fundamental question of striving to reduce the overall number of students requiring basic skills, remedial coursework or failing to pass the CAHSEE is a challenge that will need to be addressed collaboratively by all levels of educational institutions.

8. *What strategic direction is the board providing the chancellor's office as it develops the criteria for dispersing the \$30 million recently appropriated in the 2006–2007 budget for improving basic skills education?*

As discussed above, the board will continuously assess criteria for dispersing the \$30 million to ensure that it is consistent with the overall System strategic plan for improving basic skills.

9. *What policies has the board developed for guiding colleges toward the development of the newly funded remediation courses that will be created to help students who failed the California High School Exit Exam?*

The BOG will issue a Request for Applications for grants to establish projects that are local partnerships between high schools and community colleges to offer courses, workshops, seminars, tutoring, learning communities, technology mediated assistance, and other instructional methods designed to help students pass the CAHSEE. Colleges will be required to work in collaboration with local high schools to identify students and develop programs that meet their needs. The Request for Applications will place a special emphasis on those segments of the high school populations that have the lowest pass rates (English Learners, minorities, and economically disadvantaged).

Early Assessment

One of the community colleges' strategic goals is to increase completion rates among community college students by promoting college readiness as early as possible. According to a recent report by the Public Policy Institute of California, fewer than half of those students who are seeking a college degree or certificate complete their educational objectives within six years.

One strategy being considered within the system is the development of an early assessment program for 11th grade students who plan to attend a community college. The program would be modeled after a CSU early assessment program and provide an early indication of a student's readiness to take on the rigors of degree-applicable coursework. Two key components of this effort are (1) establishing a common academic standard that is aligned to K-12 academic

standards; and (2) providing prospective community college students and their teachers with a clear, consistent message about the academic preparation needed to succeed at a community college.

10. *What is the board doing to encourage colleges to work with K-12 schools to align educational standards, assessments, and coursework that will better prepare students for successfully completing a community college education?*

It is acknowledged in the Strategic Plan that K-12 curriculum and assessments do not always adequately prepare students for college work. The Plan recommends that college requirements be reflected in high school curricula, that high school students and their parents have clear understandings of what it take to succeed in college, and that the colleges work toward increased alignment with K-12, noncredit programs, and adult schools. Specific initiatives addressed in the Plan include the following:

- a. **Early Assessment.** Collaborate with the CSU early assessment program to increase K-12 preparation levels and alignment of curricula. Also, identify options to align high school and college assessments so that they reinforce each other.
- b. **Curriculum Alignment.** Participate in state-level dialogs to increase the alignment of curriculum between the colleges and K-12. Build on existing programs, for example, Cal Pass and Tech Prep, to avoid duplication.

An Action Plan Group, composed of a cross-section of educational representatives, has been formed to address these initiatives and others identified under Strategy B3: Enhance Alignment of K-12 and Community College Standards, Curriculum and Assessment Processes.

11. *Currently all colleges determine their own academic standards which can vary in academic rigor from campus to campus. Is the board encouraging colleges to begin using a uniform academic standard for assessing college readiness?*

Given the share governance structure of community colleges, the System Board of Governors is limited in how it can “encourage” colleges to develop a uniform academic standard for assessing college readiness. However, what the board can do is consistently identify model programs and develop guidance to local community colleges as they develop their specific programs that reflects the needs and demands of their students. Again, the System strategic plan will play an important role in this regard in not only identifying model programs but also in facilitating the dialogue between colleges.

Student Fees and Affordability

The 2006–2007 State Budget Act reduces community college student fees from \$26 to \$20 per semester unit, effective as of spring 2007. This action was taken to roll back fee increases imposed on community college students in recent years due to state funding shortfalls.

Additionally, the Board of Governors administers an Enrollment Fee Waiver program that was created in 1984 as a locally run program for low-income students. Approximately 40 percent of full-time students receive a fee waiver, while about 20 percent of part-time students receive the waiver. In addition to this program, students are eligible for state Cal Grants, federal Pell Grants, Work Study, Supplemental Opportunity Grants, and Stafford subsidized and unsubsidized loans if they complete a Free Application for Federal Student Aid (FAFSA) form.

12. *Should there be a long-term community college student fee policy? What should its key features be?*

The Board of Governors adopted a *Statement of Principles and Policies for Community College Fees and Financial Aid* in 1987. This policy has been revisited and reaffirmed numerous times since then. It states:

- Community college fees should be low, reflecting an overall policy that the state bears the primary responsibility for the cost of community college education.
- Community college fees should be predictable, changed in modest fashion in relation to the cost of education, and their burden should be equitably distributed among students.
- Financial aid should be sufficient to offset fees that may pose a barrier to the access of low-income students.
- Fee and financial aid policies should be consistent with fiscal and academic policies in supporting the dual objectives of access and excellence.

In 2003, the Board also specified that fee revenue collected from community college students should be retained by the system and not used to reduce general fund support for the colleges. While student fees must always be assessed within state budgetary demands, a consistent fee structure or plan should be developed to aid students and families with their own budgetary planning.

13. *Many community college students, especially those who receive a Board of Governors' fee waiver, frequently do not complete the FAFSA form, making them ineligible to receive state and federal financial aid. Should the board act to increase the number of students who complete the FAFSA form? What can the board do to increase participation among part-time students?*

Pell participation is a strong indicator of the system's success in identifying, targeting and serving low income and disadvantaged populations. Participation in the Pell Grant program has grown by 20,000 students or almost 9% over the last two years due in large part to the State's \$38 million investment in community college financial aid administration and outreach which has enabled colleges to increase their financial aid

staffing and has also enabled the system to develop the “icanaffordcollege.com” statewide financial aid media campaign that compliments local outreach efforts.

Components of the California Community College System Strategic Plan focus on expanding and improving existing programs to enhance students’ awareness of and access to available financial aid programs. The Board can continue to prioritize support and funding for the system’s effort to improve awareness of financial aid programs and to increase participation in those programs by targeting the low income and disadvantaged populations in the communities we serve.

Community Colleges must remain an affordable higher education option and financial aid is a critical part of ensuring access for many students. Despite great progress in the last two years, many high school and college students remain unaware of financial aid options and many whose parents did not attend college and may be recent immigrants are unable to access program information, read forms, or understand the complicated financial aid application process and procedures. We need to continue to find resources to provide information and assistance to reach underserved populations, including:

- Expansion of outreach and communication with students, prospective students and parents in multiple languages regarding educational opportunities and the availability of financial assistance.
- Expansion of service hours and direct assistance to students and their families in understanding the various financial aid program requirements and completing the various application forms and processes.
- Increased communication with and cooperative assistance for high school teachers, counselors and administrators to encourage students planning to attend community college to prepare for college and file the FAFSA.

The System Strategic Plan calls for efforts to increase the financial aid resources available to community college students as well as finding ways to reduce costs for students. One initiative already underway is exploring ways we might be able to reduce the cost of textbooks for students by establishing collective purchase agreements or rental programs for the most commonly used texts.

14. What improvements can be made to the Board of Governors’ fee waiver program to better integrate this source of funds with other state and federal financial assistance?

Board of Governor Fee Waiver program participation is the best testament to the efficiency and effectiveness of this valuable program. Its simplicity is reflected in the system’s success in identifying, targeting and serving eligible students and prospective students. Participation in the BOG Fee Waiver program has grown by more than 17% to more than 700,000 fee waivers over the last two years. The System is grateful that the legislature and every governor since community college fees were established in 1984 have demonstrated a continued commitment to providing full funding for revenues waived through the “BOG Fee Waiver” program and have supported

expanded financial aid outreach and delivery capacity, especially during periods of escalating fees, ensuring continued access for hundreds of thousands of Californians.

There has been discussion over recent years of creating a book grant program for the lowest income, most disadvantaged fee waiver recipients. Eligibility could be tied to completing the FAFSA. The skyrocketing cost of textbooks has made it increasingly difficult for the lowest income students to afford basic materials, thus jeopardizing their success even when tuition and fees have been paid.

Career Technical Education

The 2006–2007 State Budget Act augments the community college budget by \$50 million, for the purpose of increasing the coordination of industry-driven career technical education between community colleges and K-12 schools. Last year's budget provided \$20 million on a one-time basis to begin this work.

15. *What criteria have been established for distributing the \$20 million funded in the 2005–2006 budget for the Career Technical Education Initiative? Has all the funding already been dispersed to community colleges? What priorities has the board established for dispersing the new \$50 million investment for improving career technical education?*

All funds from 2005-06 budget have been awarded. Approximately 80% of the funds distributed required this fundamental condition: funds were awarded to partnerships of community colleges, high schools and Regional Occupational Centers / Programs (ROCP). Those partnerships had differing goals: 1) building educational pathways for new, emerging industries, 2) rebuilding educational pathways for traditional career technical education occupational areas, 3) strengthening teacher and faculty skills and knowledge about current industry requirements and 4) reaching into middle schools to assist students in learning about career choices. Another \$4 million of the funds focused on articulation, the real linking educational programs in high schools and ROCPs to community colleges.

The 2006-07 funding continues with the important work of the first year, and brings many more communities into this Career Technical Education reform. Highlights among the new priorities include Health careers, apprenticeship opportunities and an independent evaluation of the initiative. More than half of the funds from 06-07 are currently available for colleges to apply for under competitive Requests for Applications (RFAs), with additional RFAs for the remaining 06-07 funds due out later this month.

16. *How have the community colleges collaborated with the K-12 community in distributing these funds and establishing the requirements for receiving the funds?*

Our collaboration with K-12, vocational education and private sector partners are ongoing. The System Office meets directly with K-12 community in a variety of ways including through the work of the ASCA/ CCSESA (Association of California School

Administrators/ California County Superintendents Educational Services Association) coalition. Likewise, the California Tech Prep community, in conferences and regional meetings, provide input. While we continue to engage partners, we must also ensure we abide by the requirements of SB70, the DoF approved expenditure plan, and rule regarding competitive local program support.

17. *What is the chancellor's office doing to ensure that a broad cross-section of colleges competes for this funding and that the funding reaches as many colleges as possible?*

In collaboration with our partner, the California Department of Education, we have been widely disseminating information about the funding opportunities, including direct links between the CDE web site describing new grant opportunities, and our own. Moreover, the actual Requests for Application contain the proviso that the Chancellor's Office, in consultation with the Calif. Dept. of Education, reserves the right to adjust awards to ensure robust geographic distribution and a variety of program types. We are also considering several options to increase the number of colleges receiving funds. One is the possibility of conducting grant-writing workshops to help more colleges succeed in competitive funding situations. A second idea, which we are exploring with the Department of Education and the Department of Finance, is to issue a substantial amount of the career technical funding by allocation rather than a competitive process, so as to ensure that all colleges receive some of the funding.

-X-

Adam Burke, PhD, MPH, LAc
Health Education, HSS327
San Francisco State University
1600 Holloway Avenue
San Francisco, CA 94132

Senator Don Perata
Senate Rules Committee
State Capitol, Rm 420
Sacramento, CA 95814-4900

Senate Rules Committee

JAN 05 2007

Appointments

January 4, 2007

Dear Senator Perata:

I am responding to the request for feedback on the California Acupuncture Board confirmation items. I am also attaching an updated Statement of Economic Interest, Form 700. Response to questions:

Goals

1. What are your goals and objectives as a member of the Acupuncture Board? What do you hope to accomplish during your tenure?

I want to contribute to the California Acupuncture Board's (CAB) success in supporting high quality care for California consumers and high quality education and training for practitioners. I hope to contribute to this process through active participation in all board activities, including specific committee assignment, and especially by offering my experience both as a licensed acupuncturist and as a professional in higher education.

2. What are the highest priorities of the board? How will they be accomplished?

The highest priorities are to promote and protect consumer safety, maintain high educational standards, and support enforcement of California laws pertinent to the profession. These priorities are accomplished through the activities of the California Acupuncture Board staff and board members, members of state government offices, such as the Attorney General's Office, and active participation in related professional matters by the larger acupuncture community and interested consumers at large. Consumer protection should always be the primary objective of the board. Consumer protection provides a useful cornerstone for grounding all board decisions and actions, as all aspects of the CAB's mission ultimately relate to it.

Public Access to Government

3. How does the board communicate with acupuncturists and consumers regarding issues affecting the practice of acupuncture? What resources does the board provide for non-English speakers?

Communication is generally done via the CAB website and mailings regarding important issues, such as a recent communication from the CAB office regarding the change of CEU hours from 30 to 50. Regarding addressing the needs of individuals with limited English proficiency, the board offers

testing for licensure and a testing preparation manual in the English, Chinese and Korean. The board also has a Chinese translator on staff for questions from the Chinese speaking community.

Continuing Education

4. How can the board ensure that continuing education is sufficient to bridge the gap between licensees with fewer hours of training than those with more hours?

One strategy that would be worth considering would be to consider what has been added to the curriculum over the past 20 years and provide proportionally more CE course content in those areas. Another strategy would be to provide more online content offered by qualified providers in key content domains.

5. Does the board provide information to consumers about acupuncturists' training and credentials?

Information on licensure is available through the CAB website or the CAB office via phone or mail.

6. How is the board addressing the uncertainty among practitioners as to which courses count towards clinical and non-clinical continuing education hours?

At our last meeting the board members decided to discuss this issue at an upcoming strategic planning meeting. This meeting will provide an opportunity to examine the new proposed regulation package to be presented for public hearing at the February board meeting. That new regulation package provides examples of clinical and non-clinical CE courses.

7. In its 2004 Sunset Review Report filed with the Legislature's Joint Committee on Boards, Commissions, and Consumer Protection, the board outlined actions taken to improve the auditing and accountability of its continuing education program. How does the board keep track of required continuing education hours for acupuncturists? Is there anything further the board is considering to improve continuing education programs?

Upon renewing a license an acupuncturist must provide evidence of completion of California approved CE hours. The licensee is also required to maintain records for several years to provide evidence of those courses. The board is implementing the new 50 hour CE requirement and will be considering related issues at the next strategic planning meeting, including a general review of the CE approval process.

Oversight Issues

8. Is the board planning any actions concerning herb products? If so, please describe them.

Herb practice is in the scope of practice for acupuncturists, but the board does not regulate any herbal products. There is discussion related to a 4-hour CE training on herb-drug interactions. This item will be on the agenda of our upcoming meetings where we will discuss the inclusion of this requirement into the new regulations.

9. Another section of the above-mentioned report raised public safety concerns about disease protection. In response, the board banned the use of reusable needles and now requires sterile, single-use disposable needles. How does the board ensure that practitioners are in compliance?

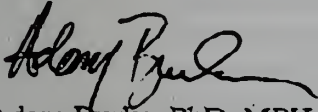
Information on this issue was posted on the CAB website, and a letter was sent to all California licensees.

10. What is your view of the adequacy of the board's enforcement effort? Do you feel the board has sufficient resources for inspection and enforcement?

I think the board is doing an excellent job in this regard, being both thorough and fair in their actions. Regarding resources, my perspective in these first 9 months is that the resources are adequate in terms of current demand and corresponding expenditures for enforcement.

If you have any additional questions please let me know. I look forward to serving the people of California as a member of the California Acupuncture Board.

Sincerely,



Adam Burke, PhD, MPH, LAc

Evelyn:

Response to Questions by Senate Rules Committee Regarding Confirmation Hearing on Peichin Cheng

Dear Chairman Perata:

It is my pleasure and honor to serve the Board for the past year. Please review the following answers to your questions for the subject matter.

Goals

1. What are your goals and objectives as a member of the Acupuncture Board? What do you hope to accomplish during your tenure?

I am a Chinese-American and I serve the Board as a public member. As mentioned in the Board's Response to the Joint Committee's Background Paper for the Acupuncture Board's January 4, 2005 Hearing, "As the integration of Eastern and Western medicine continues to expand the Eastern practitioner should be required to offer information regarding Western medicine interaction and the Western practitioner should offer information on complementary medicines, including but not exclusively, acupuncture." I hope to use my understanding of both East and West cultures to offer my services to promote the understanding of Eastern and Western medicines to enhance public health and welfare.

I would like to focus on the following areas:

1. Enhance communication among Board, practitioners and consumers;
 2. Enforce continuing education requirements for licensees;
 3. Work with other Board members and staff to promote Board's missions
2. What are the highest priorities of the board? How will they be accomplished?

The primary responsibility of the Acupuncture Board is to protect California consumers from incompetent, and/or fraudulent practice through the enforcement of the Acupuncture Licensure Act and the Board's regulations. The Board promotes safe practice through the improvement of educational training standards, continuing education, enforcement of the B&P Code, and public outreach.

Public Access to Government

More than half of the 20,000 acupuncturists in the United States practice in California. The Acupuncture Board currently regulates 10,121 acupuncturists, nearly a 50 percent increase from eight years ago.

3. How does the board communicate with acupuncturists and consumers regarding issues affecting the practice of acupuncture? What resources does the board provide for non-English speakers?

To facilitate dissemination of information to Board licensees and the general public, the Board should post all reports, including the Board's annual report to the Legislature, on its web page. Additionally, the Board's newsletter and informational brochures should also be available on-line.

The Board has been proactive in keeping its website updated with pertinent documents, data and reports beneficial to the public, exam candidates and licensees. Since 2002, the Board expanded the consumer services on its website. The website was expanded to accommodate electronic filing of complaints online, enforcement decision reports were modified to be more user-friendly to the public, and the ability for the public to electronically correspond directly with the Board was added.

For non-English speakers, The language diversity remains consistently split within the exam applicants and licensees of one-half Caucasian, one-quarter Chinese and one-quarter Korean. The California Acupuncture Licensing Examination (CALE) is given in English, Chinese (Mandarin dialect) and Korean to accommodate the language needs of the candidates. I support to enhance Board's webpage with designated foreign languages to communicate with consumers and practitioners whose first language is not English better.

Continuing Education

In 1976, when California began licensing acupuncturists, licensees were required to have at least 1,350 hours of training, a requirement that was increased to 2,348 hours in 1985 and 3,000 hours in 2005. Consequently, a portion of the estimated 6,428 practicing acupuncturists have far more education than others, some of whom were grandfather in with no education or examination requirements.

The board is currently developing regulations required by AB 1114 (Yee, Chapter 648, Statutes of 2005) which increase the number of continuing education hours required for every two-year license renewal period from 30 hours to 50 hours. AB 1114 also limits the number of educational hours relating to nonclinical matters that a licensee can apply to the requirements. At a recent board meeting, practitioners indicated their uncertainty as to which classes qualify as clinical matters.

4. How can the board ensure that continuing education is sufficient to bridge the gap between licensees with fewer hours of training than those with more hours?

The Board already took action to specify courses in the proposed regulatory changes in Attachment M of the Board's 2004 Sunset Review Report. The proposed regulatory changes will require a mandatory 4 hours in drug/herb

interaction as a condition of renewal every two years. The proposed regulatory changes also specifies categories that continuing education courses must fall within and limits the number of hours a licensee can take on courses not directly related to acupuncture and Oriental medicine, Western medicine as it relates to acupuncture practice, and scope of practice.

5. Does the board provide information to consumers about acupuncturists' training and credentials?

At this time, the Board does not provide the information because national scope, practice or educational standards "do not" exist in this profession, which is largely due to the variance in the scope of practice from state to state. The spectrum is wide and diverse. I support the board to continue monitoring the progress of the Accreditation Program and review the practice from time to time.

6. How is the board addressing the uncertainty among practitioners as to which courses count towards clinical or nonclinical continuing education hours?

The Board could take action to specify which types of courses count towards clinical continuing education hours and visa versa.

7. In its 2004 Sunset Review Report filed with the Legislature's Joint Committee on Board, Commissions, and Consumer Protection, the board outlined actions taken to improve the auditing and accountability of its continuing education program. How does the board keep track of required continuing education hours for acupuncturists? Is there anything further the board is considering to improve continuing education programs?

Prior to 2001 licensees provided self-certification of compliance with the continuing education requirements. In an attempt to verify self certification and strengthen compliance, commencing in 2001 the Board implemented a new system for recording and retaining CE provider attendance records within a monthly filing system that would be used to cross-check and verify licensees attendance to continuing education courses. Providers submit attendance records showing the name, signature and license number of the acupuncturist who attended the approved course within ten days of completion. Monthly 10-20 licensees reporting compliance with the continuing education requirement are randomly selected and sent an audit letter. The audit letter also contains language that would allow the Board to issue a citation and levy a fine should the licensee fail to comply with the continuing education requirements of Section 1399.489. Compliance levels have ranged between 93% to 97% annually.

CCR Section 1399.463 authorizes the Board to issue a citation and fine for noncompliance. B&P Code Section 4945(e) allows the Board to renew a license if the licensee's continuing education is deficient and the licensee must make up the deficient continuing education hours by the next renewal cycle.

Jan 08 2007 5:57PM CGM CAPITAL, INC. 909-364-0655 P.

The Board has tried hard to implement the recommendations provided by LHC and has made quite progress in the continuing education program. However, there are always rooms for improvement. Basically, the three areas as Recommendation No. 2 in the LHC Report should be the guide lines as follows:

- (1) Educate within scope;
- (2) Devote adequate curriculum to patient safety, including coordination (i.e., up-to-date infection control practices; improving coordination with Western medicine); and
- (3) Teach within area of expertise.

Oversight Issues

In 2004 a Little Hoover Commission report urged the board to develop consumer protections for herb products. Although the formal regulation of herbs is beyond the board's purview, California does include herbs in the scope of practice for acupuncturists. Acupuncturists are required to receive training in drug and herb interactions as part of their core curriculum.

8. Is the board planning any actions concerning herb products? If so, please describe them.

The Board recognizes and agrees with the LHC regarding the concerns and importance of herb-drug interactions, herb purity and potency, accurate labeling, and reporting of adverse effects. 'Regulating herbs' was a primary issue in the Board's 1997, 1998 and 1999/2000 Strategic Plans. The Board discussed this issue for the first time at a public meeting on September 28, 1997, and again on February 23, 1998, May 28, 1998, February 23, 1999 and concluded June 27, 2000. In 1997 the Board felt that in order to protect consumers against the potential danger of medicinal-grade herbs it was essential to review the need to regulate the distribution, sale and/or use of herbs in California. During that time, the Board assisted the California State Food and Drug Branch of the Department of Health Services (DHS), the state agency having authority over herbs and herbal products, to identify Asian patent medicines for the 1997-1998 *Compendium of Asian Patent Medicines*. This publication was compiled to educate the public, herbal industry and medical community on the potential danger of some of the patent medicines.

Dr. Richard Ko, DHS Division of Food and Drug, testified numerous times before the Board, but specifically on September 28, 1997, February 23, 1998, and May 28, 1998 regarding herbal regulation. In reference to a proposal to allow only Board licensed acupuncturists or herbalist to prescribe or administer herbs, the Board was advised, at its February 23, 1999 meeting, by its legal counsel that the Board only had legal authority to regulate herbs that are administered or prescribed by a licensee. He also advised that the coalitions of dietary herb companies and pharmaceutical companies could be too strong for the Board to take on in this highly sensitive, financially lucrative and political battle and should be left up the state agency (DHS) with the authority to do so.

The Board feels very confident that in California, acupuncturists are the only licensed health care professionals trained and tested for competency in prescribing herbal medicine. California approved acupuncture schools offer a minimum of 450 classroom hours of instruction in traditional Oriental herbology in addition to clinical training. Chinese herbal medicine has been practiced safely and effectively for centuries and has great potential for beneficial results when prescribed by a trained professional who recognizes the benefits and risks.

The Board, in its consumer brochure, advises that it is very important that a patient inform both their physician and acupuncturist of all the products they are currently taking (drugs, herbs, other supplements) so that the practitioners can monitor effectiveness, ensure safety from adverse reactions and watch for possible interactions.

9. Another section of the above-mentioned report raised public safety concerns about disease protection. In response, the board banned the use of reusable needles and now requires sterile, single-use disposable needles. How does the board ensure that practitioners are in compliance?

The Board has been responsive to the consumer by ensuring strict education requirements on clean needle technique (CNT) and testing the exam applicant on CNT protocol. The Board also enforces state and federal laws relating to standards of care, sterilization, and condition of office (i.e., OSHA, CNT, Hazardous Waste, Health and Safety Codes, etc.). The Board's 2004 revised consumer brochure, released June 2004, also contains language addressing single use needles (page 8) and herb-drug interactions (page 10).

The Board concurs acupuncture needles should always follow FDA regulations. Single-use disposable needles are already the norm and have not been an issue. The 1996 Occupational Analysis reflected that 99.6% (99.3% English, 100% Chinese and 100% Korean) of licensees 'only' used disposable needles in their practice and few consumer complaints have been filed with the Board involving multiple use needles. June 1996 FDA rules have required manufacturers to label their acupuncture needles for 'single use only', and historically, students are taught this in their theoretical and practical training.

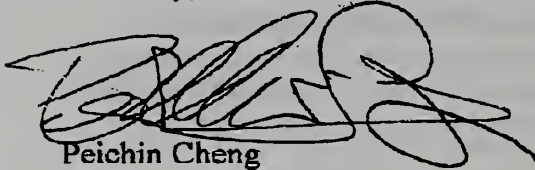
10. What is your view of the adequacy of the board's enforcement efforts? Do you feel the board has sufficient resources for inspection and enforcement?

Currently, The Board, like every other governmental agency, is limited by the budget approved by the Governor and the Legislature and must operate within those confines. The Board has regularly submitted budget change proposals for additional staff, which have been rejected. In addition, the Board, like other agencies, has regularly been under hiring freezes. However, with the limited resources, the Board and its staff has done adequate job to handle enforcement.

I believe the Board could use increased resources to enhance its enforcement efficiency by improving its public awareness program, inspection program and database improvement.

If you have any further questions regarding this matter, please feel free to contact me at (626) 354-8843.

Sincerely,



Peichin Cheng

Kenny G. Cherng, L.Ac.
20020 Emerald Meadow Drive
Walnut, CA 91789

January 7, 2007

Senate Rules Committee
Don Perata, Chairman

Honorable Senator Perata:

It is to me a great honor to be a member of the California Acupuncture Board as I possess the vision of bringing quality medical care to the people of California. The questions posed are welcomed by me as I am happy to have this opportunity to further articulate my aspirations in regards to my position. Below you will find my replies to the inquiries posed and I hope they assist you in understanding both my respect and hopes for this position.

Goals

1. *What are your goals and objectives as a member of the California Acupuncture Board? What do you hope to accomplish during your tenure?*

Answer:

As an appointed member of the California Acupuncture Board, it is my goal to educate both the acupuncture licensees and the public, to the benefits and hazards of acupuncture. In addition, I wish to enforce the current Educational and Continuing Education requirements as based upon the existing statute.

2. *What are the highest priorities of the Board? How will they be accomplished?*

Answer:

I believe the highest priority of the California Acupuncture Board should be that of protecting the consumer and this will be accomplished through the cultivation of proper education and the enforcement of current procedures.

Public Access to Government

More than half of the 20,000 acupuncturists in the United States practice in California. The Acupuncture Board currently regulates 10,121 acupuncturists, nearly a 50 percent increase from eight years ago.

Page 1 of 5

Senate Rules Committee

JAN 09 2007

Appointments
Page 002

3. *How does the board communicate with acupuncturists and consumers regarding issues affecting the practice of acupuncture? What resources does the board provide for non-English speakers?*

Answer:

The board has very good communication with the acupuncturists society. There're plenty of people from different ethnic groups utilizing different languages and attending our board meetings. The board's website provides a friendly accessible environment for consumers and licensees and the board also has free booklet (A Consumer's Guide for Acupuncture and Oriental Medicine, revised 2004) by request and also a PDF version on line. Unfortunately, there are not many resources provided for non-English speakers except for that of direct telephone communication.

Continuing Education

In 1976, when California began licensing acupuncturists, licensees were required to have at least 1,350 hours of training, a requirement that was increased to 2,348 hours in 1985 and 3,000 hours in 2005. Consequently, a portion of the estimated 6,428 practicing acupuncturists have far more education than others, some of whom were grandfathered in with no education or examination requirements.

The board is currently developing regulations required by AB 1114 (Yee, Chapter 648, Statutes of 2005) which increase the number of continuing education hours required for every two-year license renewal period from 30 hours to 50 hours. AB 1114 also limits the number of educational hours relating to non-clinical matters that a licensee can apply to the requirements. At a recent board meeting, practitioners indicated their uncertainty as to which classes qualify as clinical matters.

4. *How can the board ensure that continuing education is sufficient to bridge the gap between licensees with fewer hours of training than those with more hours?*

Answer:

I do not believe uneven levels of required training is the cause for consumer concern. I do believe that continuing education in combination with years of practical experience will eliminate all gaps for those with fewer hours of training.

5. *Dose the board provide information to consumers about acupuncturists' training and credentials?*

Answer:

A consumer may obtain knowledge of an acupuncturist's training, skills, ability, experience and license status by accessing the Board via telephone or its website.

However the public accessible information does not disclose a licensee's school and year of graduation.

6. *How is the board addressing the uncertainty among practitioners as to which course counts towards clinical or nonclinical continuing education hours?*

Answer:

In section 1399.483 (amended 2005), it clearly defined continuing education courses into two categories. Category 1 is related to the knowledge and technical skills required to practice acupuncture, including Acupuncture and Asian Medicine, Western Medicine as it related acupuncture, and Scope of Practice, which considered as clinical courses. And category 2 is considered as non-clinical courses.

7. *In its 2004 Sunset Review Report filed with the Legislature's Joint Committee on Boards, Committees, and Consumer Protection, the board outlined actions taken to improve the audition and accountability of its continuing education program. How does the board keep track of required continuing education hour for acupuncturists? Is there anything further the board is considering to improve continuing education programs?*

Answer:

Prior to 2001 licensees provided self-certification of compliance with the continuing education requirements. In an attempt to verify self certification and strengthen compliance, commencing in 2001 the Board implemented a new system for recording and retaining CE provider attendance records within a monthly filing system that would be used to cross-check and verify licensees attendance to continuing education courses. Providers submit attendance records showing the name, signature and license number of the acupuncturist who attended the approved course within ten days of completion. Monthly 10-20 licensees reporting compliance with the continuing education requirement are randomly selected and sent an audit letter. The audit letter also contains language that would allow the Board to issue a citation and levy a fine should the licensee fail to comply with the continuing education requirements of Section 1399.489. Compliance levels have ranged between 93% to 97% annually. CCR Section 1399.463 authorizes the Board to issue a citation and fine for noncompliance. B&P Code Section 4945(e) allows the Board to renew a license if the licensee's continuing education is deficient and the licensee must make up the deficient continuing education hours by the next renewal cycle.

2003-2004 the Board conducted an extensive review of CE requirements and quality/relevancy of approved CE courses. The results of this review are reflective in the proposed continuing education regulations, hearing and discussion was held at the Board meeting of August 2005. The final package for the change in Regulation of continuing education was filed with OAL December 2005.

Page 3 of 5

Oversight Issues

In 2004 a Little Hoover Commission report urged the board to develop consumer protection for herb products. Although the formal regulation of herbs is beyond the board's purview, California does include herbs in the scope of practice for acupuncturists. Acupuncturists are required to receive training in drug and herb interactions as part of their core curriculum.

8. *Is the board planning any actions concerning herb products? If so, please describe them.*

Answer:

Herbs are in the scope of practice for acupuncturists. But in the scope of practice, it does not prohibit other practitioners to practice with herbs. Concerning the safety of practicing with herbs, it is the reason for the board required acupuncturists taking drug and herb interactions in their training curriculum and continuing education credits at license renewal.

9. *Another section of the above-mentioned report raised public safety concerns about disease protection. In response, the board banned the use of reusable needles and now requires sterile, single-use disposable needles. How does the board ensure that practitioners are in compliance?*

Answer:

The Board shall ensure practitioners are complying with public health safety by establishing quality educational standards that include a focus on public health and safety issues throughout a licensee's formal and continuing training. In addition, it is also prudent to keep licensees informed of public health and safety requirements and changes in the laws and regulations via distribution of yearly Laws and Regulations, annual Points of Interest licensee newsletter, and keeping the Board's website updated with current public health and safety requirements and issues. Furthermore, Board staff and members must also keep current on new findings and decisions relating to public health and safety issues at both the state and federal level and they must also utilize an enforcement program where action is taken against licensees in noncompliance to required public health and safety requirements.

10. *What is your view of the adequacy of the board's enforcement efforts? Do you feel the board has sufficient resources for inspection and enforcement?*

Answer:

The resources for inspection and enforcement are not sufficient. There's only one enforcement coordinator and one enforcement technician in the acupuncture board to

handle all consumer complaints and to communicate with the DOI. When it comes to enforcement, the board can only take complains, without the possibility of inspection. The board should have more staff in the area of enforcement to appropriately accommodate the increase in licensees.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kenny G. Cherng', with a long, sweeping horizontal line extending to the right.

Kenny G. Cherng, L.Ac.

CALIFORNIA LEGISLATURE

MEMBERS

JIM BATTIN
VICE-CHAIR

ROY ASHBURN

DEBRA BOWEN

GILBERT CEDILLO



GREGORY SCHMIDT
SECRETARY OF THE SENATE

NETTIE SABELHAUS
APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

DON PERATA
CHAIRMAN

December 14, 2006

Steven Tan, M.D.

Dear Dr. Tan:

As you know, the Senate Rules Committee will conduct a confirmation hearing on your appointment as a member of Acupuncture Board on Wednesday, January 17, 2007. You are not required to appear.

We would like to receive an updated Form 700, Statement of Economic Interest, by January 5, 2007. A copy of the statement you submitted to us earlier is enclosed so that you may review it for any changes that might have occurred.

We have prepared the following questions to which we would appreciate your written responses. Please provide your responses by January 5th.

Goals

1. *What are your goals and objectives as a member of the Acupuncture Board? What do you hope to accomplish during your tenure?*
2. *What are the highest priorities of the board? How will they be accomplished?*

Public Access to Government

More than half of the 20,000 acupuncturists in the United States practice in California. The Acupuncture Board currently regulates 10,121 acupuncturists, nearly a 50 percent increase from eight years ago.

3. *How does the board communicate with acupuncturists and consumers regarding issues affecting the practice of acupuncture? What resources does the board provide for non-English speakers?*

Continuing Education

In 1976, when California began licensing acupuncturists, licensees were required to have at least 1,350 hours of training, a requirement that was increased to 2,348 hours in 1985 and 3,000 hours in 2005. Consequently, a portion of the estimated 6,428 practicing acupuncturists have far more education than others, some of whom were grandfathered in with no education or examination requirements.

The board is currently developing regulations required by AB 1114 (Yee, Chapter 648, Statutes of 2005) which increase the number of continuing education hours required for every two-year license renewal period from 30 hours to 50 hours. AB 1114 also limits the number of educational hours relating to nonclinical matters that a licensee can apply to the requirements. At a recent board meeting, practitioners indicated their uncertainty as to which classes qualify as clinical matters.

4. *How can the board ensure that continuing education is sufficient to bridge the gap between licensees with fewer hours of training than those with more hours?*
5. *Does the board provide information to consumers about acupuncturists' training and credentials?*
6. *How is the board addressing the uncertainty among practitioners as to which courses count towards clinical or nonclinical continuing education hours?*
7. *In its 2004 Sunset Review Report filed with the Legislature's Joint Committee on Boards, Commissions, and Consumer Protection, the board outlined actions taken to improve the auditing and accountability of its continuing education program. How does the board keep track of required continuing education hours for acupuncturists? Is there anything further the board is considering to improve continuing education programs?*

Oversight Issues

In 2004 a Little Hoover Commission report urged the board to develop consumer protections for herb products. Although the formal regulation of herbs is beyond the board's purview, California does include herbs in the scope of practice for acupuncturists. Acupuncturists are required to receive training in drug and herb interactions as part of their core curriculum.

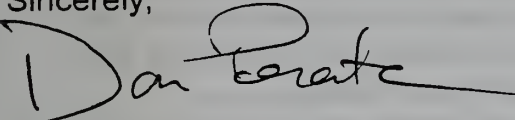
8. *Is the board planning any actions concerning herb products? If so, please describe them.*

9. *Another section of the above-mentioned report raised public safety concerns about disease protection. In response, the board banned the use of reusable needles and now requires sterile, single-use disposable needles. How does the board ensure that practitioners are in compliance?*
10. *What is your view of the adequacy of the board's enforcement efforts? Do you feel the board has sufficient resources for inspection and enforcement?*

Please direct your responses to Nettie Sabelhaus, Rules Committee Appointments Director, State Capitol, Room 420, Sacramento, CA 95814.

Thank you for your help.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Perata". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke extending to the right.

DON PERATA

enc.
DP:SH

December 24, 2006

Senate Rules Committee
Nettie Sabelhaus, Rules Committee Appointments Director
Room 420, State Capitol
Sacramento, Ca 95814

Dear Ms. Sabelhaus,

Please find below my answers in response to the questions posed by the Senate Rules Committee for the confirmation process regarding my appointment to the California Acupuncture Board. The numbers preceding each answer refer to the question numbers presented in the letter from the Senate Rules Committee dated December 14, 2006.

- 1,2. My primary goal and objective as a member of the California Acupuncture Board, and the highest priority of the California Acupuncture Board, is to ensure the protection of the public. I hope to accomplish this through judicious and sensible regulation of the Oriental medical profession in California.
3. The board communicates with acupuncturists and consumers regarding issues affecting the practice of acupuncture through a regularly updated website, relevant mailings to acupuncturists, quarterly public meetings, and an accessible staff. For non-English speakers, the board has and continues to recruit multi-lingual staff reflecting our diverse licensees. The board also continues to administer the California Acupuncture Licensing Examination and provides preparation guides for the exam in Korean and Chinese as well.
4. Though educational requirements have changed throughout the development of the field since 1974, I do not believe that the uneven levels of required training are cause for consumer concern. Differential gains in patient care expertise acquired through clinical practice and practical experience are likely to counterbalance differential gains acquired through regulated training. I believe that continuing education is sufficient to bridge the gap between licensees with different hours of training. To ensure that this gap is bridged, continuing education should address issues pertinent to public safety in the practice of Oriental medicine and equalize the knowledge base of different licensees in the safe practice of Oriental medicine.
5. Yes, the board provides information to consumers about acupuncturists' training and credentials. Consumers can either check on the California Acupuncture Board's website or contact the board directly to confirm that a licensee has met all qualifications set forward in statute, gain information on the status of an acupuncturist's licensure, and learn if any enforcement actions have been taken.
6. To address the uncertainty among practitioners as to which courses count towards clinical or nonclinical continuing education hours, the board has already slated this issue for discussion at public Education and Enforcement Committee meetings to be held in early 2007, and at the board's strategic planning meeting in early 2007. Final and clear guidelines resulting from these meetings will be

Senate Rules Committee

JAN 08 2007

Appointments

posted on the board's website, discussed at public meetings, and explained in mailings to licensees and schools.

7. The board keeps track of the required continuing education hours for acupuncturists by performing random audits of acupuncturists who have reported compliance with the continuing education requirement. Prior to 2001 licensees provided self-certification of compliance with the continuing education requirements. In an attempt to verify self certification and strengthen compliance, commencing in 2001 the Board implemented a new system for recording and retaining CE provider attendance records within a monthly filing system that would be used to cross-check and verify licensees attendance to continuing education courses. Providers submit attendance records showing the name, signature and license number of the acupuncturist who attended the approved course within ten days of completion. Monthly 10-20 licensees reporting compliance with the continuing education requirement are randomly selected and sent an audit letter. The audit letter also contains language that would allow the Board to issue a citation and levy a fine should the licensee fail to comply with the continuing education requirements of Section 1399.489. Compliance levels have ranged between 93% to 97% annually. CCR Section 1399.463 authorizes the Board to issue a citation and fine for noncompliance. B&P Code Section 4945(e) allows the Board to renew a license if the licensee's continuing education is deficient and the licensee must make up the deficient continuing education hours by the next renewal cycle.

Other steps will soon be taken in continuing education courses to further enhance a licensee's knowledge, skills and abilities to protect consumers that follow from the Board's extensive review of continuing education requirements and quality/relevancy of approved continuing education courses conducted in 2003-2004. Some of these steps include prohibiting practical or hands on techniques for independent or home study courses; requiring the licensee to complete a self-assessment of the course for courses approved for independent or home study; prohibiting providers from selling or discussing name brand products during a course; specifying instructor's minimum experience in subject matter taught; imposing stricter guidelines in advertising by requiring that course titles reflect course content without market language, state the level of difficulty of a course and state a full disclosure of all products that will be for sale after completion of a course.

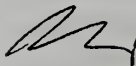
8. Consumer protections for herb products are a serious concern for me and for the board. Though it is true that formal regulation of herbs is beyond the board's purview, the board will continue to promote the safe practice of herbs for the public through continued licensing examination inclusion of herb issues, active enforcement of any reports of unsafe herbal use by licensees, and continued discussion of relevant herbal safety issues with the public and all stakeholders at quarterly public meetings.
9. To address public safety concerns about disease protection, the board banned the use of reusable needles and now requires sterile, single-use disposable needles.

The board ensures to the best of its ability that practitioners are in compliance by issuing letters to all licensees and schools informing them of this requirement, making this information available to the public and practitioners on our website, promoting clean needle technique requirements for all licensees, and by actively investigating and enforcing any reports of misconduct that are received by the board.

10. I believe the board's enforcement efforts have been adequate as a result of its strong dedication to public safety. Public safety is achieved by the board through several methods. The board strives to establish quality educational standards that focus on public health and safety issues at every level of an acupuncturist's training. Board staff and members keep current on new findings and decisions relating to public health and safety issues at the state and federal level. All licensees are informed of public health and safety requirements and changes in the laws and regulations through multiple means including the distribution of yearly Laws and Regulations, the distribution of an annual Points of Interest licensee newsletter, and timely updates of the board's website with current public health and safety requirements and issues. Finally, the board's enforcement program will continue to action against licensees who fail to comply with required public health and safety requirements. Currently, the board's resources appear sufficient for inspection and enforcement under the current complaint-driven enforcement system. However, the board will require additional resources if the need arises to augment the current complaint-driven enforcement system to one that is internally generated by the board.

Please do not hesitate to contact me if you need further clarification on any of the issues discussed above.

Sincerely,



Steven Tan, MD, LAc

SENATE RULES COMMITTEE
QUESTIONS AND ANSWERS

- Q. What goals and objectives do you hope to see accomplished during your tenure as a member of the California Veterans Board?
- R. As a member of the California Veterans Board I want to see a board that is an innovative working board. A board that works with the administration to set policy which is in the best interest of our veterans, a board that can have oversight on the California Department of Veteran Affairs.
- Q. What experience do you bring that will assist the work of the board?
- R. I have had extensive experience working with veterans and officials, both from the federal Veterans Administration and California Department of Veteran Affairs, when I held the position of National Commander. I have also worked closely with elected officials both at the federal and state levels and have testified before Congressional Committees on behalf of veterans. My experience at the as an engineering manager at the Corporate level, developed my interpersonal skills in working with people. It also gave me the experience to manage tasks and budgets to meet projected schedules.
- Q. Do you view the role of the California Veterans Board as one of policy setting for the Department of Veterans Affairs? Can you provide instances where the board provided policy direction to the department?
- R. I view the board as one of policy setting. Section 72 of the Military and Veterans Code states: "The California Veterans Board shall determine the policies for all operations of the department". The board must be able to set policy by working in conjunction with the administration. In the last few months the board has passed policies C-12 Resident Participation in Health Service Plans, D-1 Revocation of Specific powers of Attorney, D-2 Services to be provided by the Veteran Service Division not Covered by Law or Regulation, A-13 Veterans Benefits: Leave from the Department to make late Applications
- Q. Please explain the board's rationale for using the department's lawyers when writing policy and, generally speaking, not using a lawyer when hearing an appeal.
- R. The board has the option to use outside counsel any time it feels that there is a perceptive of a conflict of interest if the department lawyer is involved on an issue of policy or hearing an appeal. The board has determined that the board will hear appeals and will obtain outside counsel only when there is a need for a legal interpretation on the appeal. In writing policy the board will work with department counsel in the development of that policy. If there is an appearance of a conflict of interest in using department counsel, the board has the option to obtain independent counsel.
- Q. Do you believe that some of the department and board's policies are outdated?

What plans are there to undertake a review? When considering any new policy, how do you

- ensure that members of the public are informed of the proposed policy and allowed to comment?
- R. I believe that some of the department and board policies need to be updated. The board has discussed this issue with the administration and will further take this issue under discussion with the administration to come up with a plan of action as to how and when this can be accomplished. Any new policy under consideration should be made available to the public by dissemination of that proposed policy. The information should be disseminated by the department information officer through the internet, through the department and board's news letter, press releases and all means available to reach the public and veteran population.
- Q. When will the Yountville Alzheimer's/Dementia unit began serving patients?
What role is the board playing in ensuring this unit is opened as quickly as possible?
- R. The Yountville Alzheimer's/Dementia unit will hopefully start operation early this year. The board is monitoring the progress as reported to the board by the department administration and the Yountville administration and both administrations are working diligently to make it happen.
- Q. What lessons learned from the building and inspection issues at the Yountville Alzheimer's/Dementia unit are transferable to the new veteran's homes that will be built soon?
- R. There needs to be a system of consistency as it applies to the facilities layout and equipment, in order that we don't have to reinvent the wheel every time we build a new facility. Engineering planning of overall facility construction has to be in place before construction begins, schedules have to be met in order to avoid financial impact due to missed schedules or redesigns.
- Q. What role do you play in monitoring the status of federal matching funds and projected construction start dates on proposed new veterans homes?
- R. Since I have been on the board we have not played an active role in the status of federal matching funds, however, that does not mean that we should not have a role in that area. The administration keeps the board informed on the status of matching funds. However, I believe that have the talent on the board to be able to make contact with our elected and appointed officials both at the state and federal level to go after funds for any veteran program. On the monitoring of projected construction start dates on proposed new veteran homes, the administration keeps the board informed on the progress and schedules. My opinion is that the board not interfere with the engineering, planning or managing of the constructing of the new homes. Let the experts do their work.
- Q. Does the department seek the board's advice on any changes in policies with respect to admittance of veterans to a veterans home, definitions for the levels of care provided by the department at the homes, or other regulations that might impact the board's authority over the appeals from veterans who were denied admittance to a veteran's home?
- R. The board, the department administration and the home administrator coordinate changes to the policy with respect to admission, however, the board has the responsibility to establish the policy for admission. Levels of care and or regulations defining care of patients are defined by standard procedures established by federal and state medical regulations. However, the board, with the help of the

administration and frequent visits to the homes, will be kept informed on the care of patients.

- Q. Are there any policies, programs, or initiatives you believe the state should be implementing, to help the younger generation of veterans created post 9/11?
- R. There programs in place to reach the post 9/11 veteran, however, there are many veteran's who are not aware of the benefits that they are entitled to. There has to be a more aggressive public relations program to reach those veterans. There needs to be a partnership with EDD and colleges in an effort to reach those veteran's who need jobs or need vocational training, be it at a college or vocational training institution. There has to be better communication with veterans and veteran organizations.
- Q. In light of recent problems at the U.S. Department of Veterans Affairs with the loss of personal data, has the board examined the, California Department of Veterans Affairs, existing privacy policies.
- R. The board has been assured by the department that there is a system in place to prevent computer theft of private information. I can not recall if there is a policy that addresses this issue, however, since you brought this issue up I will bring up the subject at the next board meeting.

Attachment to January 2, 2007 letter to Nettie Sabelhaus**Statement of Goals**

1. What goals and objectives do you hope to see accomplished during your tenure as a member of the California Veterans Board?

One goal which the Communications Committee (which I chair) has set is to ensure timely dissemination of information from the CDVA and the CVB to the 2.2 million veterans in the state, so they are aware of what the department and board are doing to serve their interests and needs. Not every veteran is computer savvy, so we must make certain the information is disseminated using multiple mediums.

A second goal which I personally have is that the Board will be seen as an advocate for veterans' affairs identifying needs and working in concert with the Department to ensure and enhance the rights and benefits of California veterans and their dependents.

2. What experience and expertise do you bring that will be of value to the California Veterans Board?

I served my country for more than 30 years, both fulltime active duty and as a member of the Air Force Reserves. I am one of nine children; seven of us have served and all four of the husbands in the family served. Every branch of service was represented among those serving. One brother-in-law lost his leg during WWII, and he is now using the services offered to veterans in an upstate New York facility. My youngest brother served in the Vietnam Conflict as an infantryman, and after a long and distinguished career in the civilian community, he was diagnosed with peripheral neuropathy, caused by the Agent Orange to which he was exposed during his time in Vietnam. The family members, on his behalf, had to deal with the bureaucracy to get him the help and benefits to which he was entitled. Even with college educated brothers, sisters, and other family members, it was NOT an easy task to work through the minefields of state and federal government offices. While he resides in another state, not California, that ought not to be! I plan to fully ensure that California veterans who appeal to the CVB get a fair and timely hearing! In fact, I believe that if we have adequate, fair and equitable policies in place, and these policies are in accordance with what is allowable by law, and they are carried out by CDVA staff, we can possibly decrease, if not eliminate, most appeals.

I also served on the Eskaton Corporate Board of Directors for six years where we dealt with policies regarding all levels of senior care from independent, assisted living, skilled nursing, and Alzheimer patient care.

State Rules Committee

1

JAN 03 2007

Roles and Responsibilities

3. Do you view the role of the California Veterans Board as one of policy setting for the Department of Veterans Affairs? Yes. Can you supply instances where the Veterans Board provided policy direction to the department?

We currently have 36 approved policies in the following categories: General (12); Farm & Home Purchases (10); Veterans Home Policy (11); Veterans Services Policy (2); and Resolutions Policy (1). We also have a policy that each of these must be reviewed for possible revising every two years. We are currently working to develop a policy about Admissions to the Various Veterans Homes.

4. Please explain the board's rationale for using the department's lawyers when writing policy and, generally speaking, not using a lawyer when hearing an appeal.

The rationale was that a retired annuitant attorney or a deputy attorney general could not serve in a policy counsel role for the Board because that person would not be directly accountable to the Governor. If there is a need for a second legal opinion on a policy-related legal matter the board could obtain that opinion from the Governor's Legal Secretary and this would preserve the Governor's plenary authority over the policy direction of the CDVA. It was the opinion of the Chair, based on his three years of service on the board, that most of the appeals were just a case of records review requests and the Board could conduct informal hearings itself. I respect his opinion and based on his experience, I saw no problem with this approach. The board did reserve the right to hire outside legal counsel should they felt it necessary for the most complex formal hearing appeals.

5. Critics state that a number of the department's rules and regulations and board policies are outdated and that many of them do not reflect the department or the board's existing practices and services. Currently at board meetings, aside from the agenda, the board does not provide any materials to members of the public regarding proposed new board policies.

I have not personally reviewed all of the department's rules and regulations to determine if the critics are correct. If you could identify for me who those critics are, and if they have already done an extensive review so they can make this judgment, I would be pleased to sit down with him or her and learn from the work they have already accomplished. The board is in the process of reviewing our own policies that apply to all areas of the department, and as we see additional areas where we need to weigh in, we will do so. When a proposed policy is to be considered at a board meeting, I see no reason why the proposed policy cannot be made available to any one who wants to review it. It could also be posted on-line for wider dissemination, or published in our CVB bi-monthly

newsletter and not just be available to those who are attending the board meetings. I will work with the Chair and the Executive Directive to implement.

Yountville Alzheimer's/Dementia Unit

- 6. When will the Yountville Alzheimer's/Dementia unit begin serving patients? What role is the board playing in ensuring this unit is opened as quickly as possible?**

At our December board meeting, we had a briefing by the Department staff regarding the delays at the new Yountville facility. Apparently, the delays are due to a problem with the flooring. The solution is in the hands of the State's Department of General Services who is working with the contractor to resolve. The board can express their concerns in writing to DGS, but whether voicing our concerns would expedite the repairs is not known. The unit should not be opened until it is safe for dementia patients and the employees.

My goals for the new unit are that the staff is properly trained and that any patient that is admitted be cared for in a loving, caring and safe environment. My own Mother died of Alzheimer's disease, so I am especially mindful that these residents need extra special understanding as they progress through the various stages of the disease. Having served on Eskaton Corporation's Board of Directors, I am very much aware of what such a unit should be, standard-wise. I am confident that Secretary Johnson and his staff will hire and train top notch people for this unit. We will be touring the facility and watching as things progress and asking pertinent questions. Are there future plans to establish more units like the one in Yountville? Not to my knowledge, however, as the veteran population continues to age, it is inevitable that the need might demand it. There are many excellent facilities in the community should veterans not want to use the state's system and programs.

Veterans Homes

- 7. What lessons learned from the building and inspection issues at the Yountville Alzheimer's/Dementia unit are transferable to the new veterans' homes that will be built soon?**

Choose the contractor wisely; tighten up the contract and hold the contractor's feet to the fire. Perhaps, more DGS oversight of the contractor who gets the contract would be helpful. My experience with government contracting is that there are usually delays and cost over runs.

I assume the contracts for the new veterans homes will be awarded by DGS, so perhaps if CDVA, DGS and the contractor would meet on a regular basis to ensure the process goes according to the plans, any potential problems can be resolved long before it is too late. I am certain that DGS has to abide by the laws which have been put in place by the Legislature regarding awarding of

contracts. As a board member, I will continue to ask for status briefings and offer any advice or assistance I can give.

8. What role do you play in monitoring the status of federal matching funds and projected construction start dates on proposed new Veterans Homes?

We receive briefings at every board meeting regarding funds status, and the construction plans as they progress through the approval process. The board also received briefings at the Secretary's semi-annual review to which the public is also invited. These briefings are always informative and they provide updates about what is happening in the department.

9. Does the Department seek the Board's Advice on any changes in policies with respect to admittance of veterans to a Veterans Home, definitions for the levels of care provided by the Department at the Homes, or other regulations that might impact the Board's authority over the appeals from veterans who were denied admittance to a Veterans Home?

See item 3 above. We are currently working with the Department to draft for review and approval a policy regarding admittance to the Homes.

New Veterans

10. Are there any policies, programs or initiatives you believe the state should be implementing to help the younger generation of veterans created post 9-11?

I especially like the "Hire a Hero, Hire A Vet" program whereby those veterans ages 21-30 and older have an opportunity to know where the jobs are and can apply for work. Being in the military is a 24/7 job, and it can be very demeaning and depressing to have been so busy defending our country, only to find oneself unemployed and unimportant to our community and nation. Not every veteran is interested in higher education; however, for those who are, I believe the State should waive all tuition fees for them. We do so much for other groups of people; we should do at least as much if not more for our young veterans. I believe that reservists and guardsmen should also have their tuition waived. Years ago when I served on the Air Force Reserve Policy Board, many other states throughout the nation provided tuition-free higher education opportunities to the military that joined the Guard. California should do no less!

Privacy

11. In light of recent problems at the US Department of Veterans Affairs with the theft/loss of personal data, has the Board examined the California Affairs Department's existing privacy policies?

Yes, at our August, 2006 meeting, Secretary Johnson gave us an update on how the department handles privacy issues, and I was satisfied that all of our veterans' private information is being handled securely.

The following table shows the results of the experiments conducted on the effect of the concentration of the solution on the rate of reaction. The concentration of the solution was varied from 0.1 M to 0.5 M, and the rate of reaction was measured by the time taken for the reaction to complete. The results show that the rate of reaction increases with increasing concentration of the solution.

Concentration of Solution (M)	Time taken for reaction to complete (s)
0.1	120
0.2	60
0.3	40
0.4	30
0.5	20

The results of the experiments show that the rate of reaction increases with increasing concentration of the solution. This is because a higher concentration of the solution means there are more particles of the reactants in a given volume, which increases the chance of a collision between the particles and thus the rate of reaction.

The following table shows the results of the experiments conducted on the effect of the temperature on the rate of reaction. The temperature was varied from 20°C to 40°C, and the rate of reaction was measured by the time taken for the reaction to complete. The results show that the rate of reaction increases with increasing temperature.

Temperature (°C)	Time taken for reaction to complete (s)
20	120
30	60
40	30

The results of the experiments show that the rate of reaction increases with increasing temperature. This is because a higher temperature means the particles have more kinetic energy, which increases the chance of a collision between the particles and thus the rate of reaction.

CALIFORNIA LEGISLATURE

MEMBERS

JIM BATTIN
VICE-CHAIR

ROY ASHBURN

DEBRA BOWEN

GILBERT CEDILLO



GREGORY SCHMIDT
SECRETARY OF THE SENATE

NETTIE SABELHAUS
APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

DON PERATA
CHAIRMAN

December 18, 2006

Colin F. Shadell

Dear Mr. Shadell:

The Senate Rules Committee will conduct a confirmation hearing on your appointment as a member of the California Veterans Board on Wednesday, January 17, 2007. You are not required to appear.

We would like to receive an updated Form 700, Statement of Economic Interest, by January 5, 2007. A copy of the statement you submitted to us earlier is enclosed so that you may review it for any changes that might have occurred.

Following are questions we would like you to respond to in writing so that members of the Rules Committee may be better informed about your work on the commission. Please have this information in our office by the close of business on January 5th. If you prefer, you can fax your responses to us at (916) 445-0596.

Statement of Goals

1. *What goals and objectives do you hope to see accomplished during your tenure as a member of the California Veterans Board?*
2. *What experience do you bring that will assist the work of the board?*

Roles and Responsibilities

The California Veterans Board is the policymaking body for the Department of Veterans Affairs and acts as an appellate body for veterans who wish to appeal a ruling made by the department.

In June 2003 the California state auditor issued a report on the California Veterans Board. The report notes in February 2003 the Department of Veterans Affairs tried to challenge the board's authority and characterize the role of the board as "advisory."

3. *Do you view the role of the California Veterans Board as one of policy setting for the Department of Veterans Affairs? Can you supply instances where the board provided policy direction to the department?*

The report also says the board lacks independent legal counsel and that using Department of Veterans Affairs' lawyers in rulings on appeals of the department's decisions may introduce a conflict of interest. At the December 7, 2006, meeting the board decided that when developing policy, it would utilize the Department of Veterans Affairs' legal counsel for assistance. However, when hearing an appeal, the board will conduct the hearing on its own without legal counsel. Only when the board determines that the hearing is especially difficult will it ask for outside independent counsel.

4. *Please explain the board's rationale for using the department's lawyers when writing policy and, generally speaking, not using a lawyer when hearing an appeal.*

Critics state that both the department's rules and regulations and the board's policies are outdated and that many of them do not reflect the department or the board's existing practices and services. Currently at board meetings, aside from the agenda, the board does not provide any materials to members of the public regarding proposed new board policies.

5. *Do you believe that some of the department's and the board's policies are outdated? What plans are there to undertake a review? When considering any new policy, how do you ensure members of the public are informed of the proposed policy and allowed to comment?*

Yountville Alzheimer's/Dementia Unit

The first phase of the new Yountville Alzheimer's/Dementia unit, which will ultimately serve 75 patients, was supposed to begin serving 40 patients several months ago. However, due to building problems, the unit has not yet passed inspection. At present the unit remains unopened, has no staff, and no equipment.

6. *When will the Yountville Alzheimer's/Dementia unit begin serving patients? What role is the board playing in ensuring this unit is opened as quickly as possible?*

Veterans Homes

On December 7, 2006, the Department of Veterans Affairs received the deed from the federal government to over 13 acres of land in West Los Angeles that will be used to build a new 400-bed veterans home.

7. *What lessons learned from the building and inspection issues at the Yountville Alzheimer's/Dementia unit are transferable to the new veterans homes that will be built soon?*
8. *What role do you play in monitoring the status of federal matching funds and projected construction start dates on proposed new veterans homes?*
9. *Does the department seek the board's advice on any changes in policies with respect to admittance of veterans to a veterans home, definitions for the levels of care provided by the department at the homes, or other regulations that might impact the board's authority over the appeals from veterans who were denied admittance to a veterans home?*

New Veterans

10. *Are there any policies, programs, or initiatives you believe the state should be implementing to help the younger generation of veterans created post-9/11?*

Privacy

As recently as August 3, 2006, the U.S. Department of Veterans Affairs lost a computer. Consequently, the personal information of as many as 16,000 veterans went missing. This follows a May 2006 incident wherein personal information belonging to 26.5 million veterans was compromised.

11. *In light of recent problems at the U.S. Department of Veterans Affairs with the loss of personal data, has the board examined the California Department of Veterans Affairs existing privacy policies?*

Please direct your responses to Nettie Sabelhaus, Rules Committee Appointment Director, Room 420, State Capitol, Sacramento, CA 95814.

Thank you for your assistance.

Sincerely,



DON PERATA
DP:BH

COLIN F. SHADELL

December 26, 2006

Ms. Nettie Sabelhaus
Rules Committee Appointment Director
State Capitol, Room 420
Sacramento CA 95814

Colin Shadell
Responses

Re: Don Perata Letter

Dear Ms. Sabelhaus:

Having received a letter from Mr. Perata dated December 18, 2006 in regard to the confirmation hearing on my appointment as a member of the California Veterans Board, I am directing my responses to you as he directed.

Statement of Goals

1. As a resident of a California Veterans Home, my primary objective as a member of the Cal Vet Board is to promote the highest level of morale and welfare possible for the residents of all the homes. I hope to accomplish this by keeping in close contact with the Executive Board of the Allied Councils representing each home in order to be aware of any problems that need to be brought before the Board for resolution.
2. My 14 years as a naval officer, plus 25 years of personnel, operational and administrative experience in the private sector, have provided me with the skills that will aid me in making a positive contribution to the Board.
3. Yes, I view the role of the Cal Vet Board as one of policy setting for the Department of Veterans Affairs. I am too new to the Board to be aware of any instances where the Board provided policy direction for the Department.
4. After reviewing Robert D. Wilson's opinion relative to the Board writing policy, it appears that the Board, while writing policy, could use the Governor's legal secretary for a second opinion, "thereby preserving the Governor's plenary authority of the policy direction of the CDVA." In the case of appeals, the Board felt that the large majority of appeals can be effectively resolved by employing strict compliance with the provisions set forth in the Military and Veterans Code and the Policies and Procedures of the Veterans Homes. In cases where the Board cannot come to a resolution, it may seek advice from the Department lawyers. Another consideration for not seeking independent counsel was that the Board could use this money earmarked for legal expenses elsewhere.

5. Yes, I believe some of the Department's and Board's policies are outdated. Under the new leadership of the Board, these policies are being reviewed, keeping in mind that new homes will soon be operational and the review of current policies is both critical and timely.

Yountville Alzheimer/Dementia Unit

6. The Yountville Alzheimer/Dementia Unit experienced difficulties with the contractor responsible for laying the floor in the unit. The work had to be redone, causing a significant delay in the opening of the unit. The current expectation for opening the unit is early Spring 2007. The role of the Board in this endeavor is to monitor the progress through regular updates from the Yountville administrator.

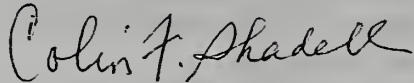
Veterans Homes

7. The lessons learned from the building and inspection issues at the Yountville Alzheimer/Dementia unit are that building contractors must be chosen only after a thorough check of references has been completed to determine that the quality of their work has been proven to be good. It is also the duty of the homes' operations departments to monitor the progress and quality of any work being done.
8. My role in monitoring the status of federal matching funds and projected construction start dates on proposed new veterans homes is minimal, other than to keep aware of current developments.
9. During my tenure on the Board, I'm not aware that the Department has sought the Board's advice on any changes in policies with respect to admittance of veterans to a veterans home, definition for the levels of care provided by the Department at the homes, or other regulations that might impact the Board's authority over the appeals from veterans who were denied admittance to a veterans home.
10. The current policies, programs or initiatives, I believe, are relevant and adequate for the younger generation of veterans created post 9/11. What needs to be done, and the Board is taking appropriate action in this regard, is to communicate these policies and programs to all California veterans through veterans organizations and services offices.
11. In light of recent problems at the U.S. Department of Veterans Affairs with the loss of personal data, the Board is currently working with the appropriate department heads to review and take the necessary measures to implement procedures that will ensure privacy.

I would like to add that I have the utmost respect for and confidence in General Chong, Cal Vet Board Chairman. I believe him to be especially well qualified to steer the Board in the direction most beneficial to the veterans of California.

There has been no change in my Form 700 Statement of Economic Interest dated May 27, 2006.

Sincerely,

A handwritten signature in cursive script that reads "Colin F. Shadell". The signature is written in dark ink and is positioned above the printed name.

Colin F. Shadell

553-R

Additional copies of this publication may be purchased for \$7.00 per copy
(includes shipping and handling) **plus current California sales tax.**

Senate Publications & Flags
1020 N Street, Room B-53
Sacramento, CA 95814
(916) 651-1538

Make checks or money orders payable to **SENATE RULES COMMITTEE.**
Credit cards not accepted.

Please include Stock Number 553-R when ordering.

HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA



DOCUMENTS DEPT.

Vol. 37

GAO/MSR/07-00
PUBLIC AFFAIRS

STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, JANUARY 24, 2007
1:32 P.M.

1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

3
4
5
6 HEARING

7
8
9
10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

13
14
15 WEDNESDAY, JANUARY 24, 2007

16 1:32 P.M.

17
18
19
20
21
22
23
24 Reported by:

25
26 Evelyn J. Mizak
27 Shorthand Reporter
28

APPEARANCES

MEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR ROY ASHBURN, Vice Chair

SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

BILL BAILEY, Consultant to SENATOR ASHBURN

DAN SAVAGE, Consultant to SENATOR CEDILLO

CHRIS BURNS, Consultant to SENATOR DUTTON

BILL MABIE, Consultant to SENATOR PADILLA

ALSO PRESENT

THERESE M. DELGADILLO, Director
Department of Developmental Services

SASCHA BITTNER, Chairperson
State Council on Developmental Disabilities

ALAN KERZIN, Executive Director
State Council on Developmental Disabilities

RICK ROLLENS, Co-Founder
MIND Institute, UC Davis

SHIRLEY A. DOVE, President
ARC of California

SANTI J. ROGERS, Executive Director
San Andreas Regional Center

MICHAEL LONG, Executive Director
People First of California, Inc.

1 MICHAEL CLARK, Director
Kern Regional Center, Bakersfield
2
3 MARNIE CLARK
Kern Regional Center
4
5 BOB BALDO, Executive Director
Association of Regional Center Agencies
6
7 JIM BURTON, Executive Director
Regional Center of East Bay, Oakland
8
9 ELIZABETH ANNE LYONS, Chair
LACRC Area
10
11 GEORGE STEVENS, Executive Director
North Los Angeles County Regional Center
12
13 GLORIA WONG, Executive Director
Eastern L.A. Regional Center
14
15 MARY LYNN CLARK, Director
Inland Regional Center
16
17 CARL LONDON
CA Rehabilitation Association
18
19 CATHERINE BLAKEMORE, Executive Director
Protection and Advocacy
20
21 ALLEN DAVENPORT, Director
Government Relations
SEIU
22
23 THERESA DeBELL, President
CASHPCR
24
25 SIBBY McCULLOUGH, Parent
Developmental Disabilities
26
27 LORI EVANS
Sister of Developmentally Disabled Man
28
29 MARTY OMOTO
California Community Action Network



1 PHILIP BANNET, Executive Director
2 Alta California Regional Center

3 ANN L. BOYNTON, Deputy Secretary
4 Health and Human Services Agency
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



INDEX

	<u>Page</u>
Proceedings	1
<u>Governor's Appointees:</u>	
THERESE M. DELGADILLO, Director	
Department of Developmental Services	1
Opening Statement	1
Questions by CHAIRMAN PERATA re:	
Closure of Agnews Developmental	
Center	3
Who Will Take Land	4
Process of Placement of People in	
Centers vs. Community	5
Management of Staffing Problems with	
Pay Disparity and Retirement Issues	7
Autism	9
Questions by SENATOR PADILLA re:	
Explanation for Increase in Autism	11
Comments by SENATOR ASHBURN re:	
Appreciation for MS. DELGADILLO	13
Motion to Confirm	14
<u>Witnesses in Support:</u>	
SASCHA BITTNER, Chair	
State Council on Developmental Disabilities	14
ALAN KERZIN, Director	
State Council on Developmental Disabilities	15

1	RICK ROLLENS, Co-Founder	
2	MIND Institute	15
3	SHIRLEY DOVE, President	
4	ARC of California	15
5	SANTI ROGERS, Executive Director	
6	San Andreas Regional Center	16
7	MICHAEL LONG, Executive Director	
8	People First of California, Inc.	16
9	MIKE CLARK, Director	
10	Kern Regional Center, Bakersfield	17
11	MARNIE CLARK	
12	Kern Regional Center	18
13	BOB BALDO, Executive Director	
14	Association of Regional Center Agencies	18
15	JIM BURTON, Executive Director	
16	Regional Center of East Bay, Oakland	19
17	ELIZABETH LYONS, Chair	
18	LACRC	20
19	GEORGE STEVENS, Executive Director	
20	North Los Angeles County Regional Center	20
21	GLORIA WONG, Executive Director	
22	Eastern Los Angeles Regional Center	21
23	MARY LYNN CLARK, Director	
24	Inland Regional Center	22
25	CARL LONDON	
26	California Rehabilitation Association	23
27	CATHERINE BLAKEMORE, Executive Director	
28	Protection and Advocacy	23
	ALLEN DAVENPORT, Director	
	Government Relations	
	Service Employees International Union	24
	TERRI DeBELL, President	
	CASHPCR	25

Vol. 10, Part 1, 1980

Edited by
J. H. REES

Published by
The Royal Anthropological Institute

Subscription prices (including postage)
1980: £12.00 (UK), £14.00 (overseas)

Single copies: £2.00

Orders to: The Publisher

Subscription orders should be sent to:
The Royal Anthropological Institute

11, BEDFORD SQUARE, LONDON, W.C.1A 3EF

Telephone: 01-637 4747

Telex: 9440

Orders for single copies should be sent to:
The Royal Anthropological Institute

11, BEDFORD SQUARE, LONDON, W.C.1A 3EF

Telephone: 01-637 4747

Telex: 9440

Orders for single copies should be sent to:
The Royal Anthropological Institute

11, BEDFORD SQUARE, LONDON, W.C.1A 3EF

Telephone: 01-637 4747

Telex: 9440

Orders for single copies should be sent to:
The Royal Anthropological Institute

11, BEDFORD SQUARE, LONDON, W.C.1A 3EF

Telephone: 01-637 4747

Telex: 9440

1	SIBBY MCCOLLOUGH, Board Member	
2	Developmental Disabilities Area Board III	25
3	LORI EVANS	
4	Sister of Developmentally Disabled Man	26
5	MARTY OMOTO	
6	California Disability Community Action Network	27
7	PHIL BANNET, Executive Director	
8	Alta California Regional Center, Sacramento	28
9	Statements by CHAIRMAN PERATA re:	
10	High Praise from Niece	28
11	Admiration of Commitment	29
12	Committee Action	30
13	ANN L. BOYNTON, Undersecretary	
14	Health and Human Services Agency	30
15	Opening Statement	30
16	Questions by CHAIRMAN PERATA re:	
17	Succession Planning	32
18	Hiring of Cal Works Recipients	34
19	IT Needs	34
20	Questions by SENATOR PADILLA re:	
21	Workforce Diversity	36
22	Diabetes Epidemic	37
23	Importance of In-Home Supportive	
24	Services and Proper Compensation	38
25	Statements by SENATOR PADILLA re:	
26	Aging Population Will Need Services and	
27	Require Recruitment of Workers	39
28		

THE HISTORY OF THE
CITY OF BOSTON

FROM THE FIRST SETTLEMENT
TO THE PRESENT TIME

BY
JOHN B. BOWEN

IN TWO VOLUMES.

VOLUME THE FIRST.

1822.

BOSTON: PUBLISHED BY
J. B. BOWEN.

1822.

PRINTED BY
J. B. BOWEN.

1822.

BY J. B. BOWEN.

1822.

BOSTON: PUBLISHED BY
J. B. BOWEN.

1822.

BY J. B. BOWEN.

1822.

BOSTON: PUBLISHED BY
J. B. BOWEN.

1822.

BOSTON: PUBLISHED BY
J. B. BOWEN.

1822.

Questions by SENATOR ASHBURN re:

Lack of Efficiency in Granting Licenses,
Certifications and Inspections 40

Existing Timelines for Licensure and
Certification 41

Effort to Solicit Input from Provider
Community 41

Statements by SENATOR CEDILLO re:

Concerns on Licensing and Certification 42

Current Proposal Disregards Last
Year's Agreement to Transition
Incrementally towards Fee System 43

Applaud Governor's Initiative to be
Inclusive of All Children 44

In-home Support Services Are Cost-
Effective Investments 44

Need to Construct Strategies to
Recognize Aging Population 45

Statements by SENATOR ASHBURN re:

OSHPD in Agency's Domain 45

OSHPD Nightmarish Maze of Regulations
And Reviews 46

Need for Emergency Task Force to
Change OSHPD 46

Questions by SENATOR PADILLA re:

Discontinuation of Children-only
Grants when Parents Don't Meet
Work Requirement 47

Questions by SENATOR CEDILLO re:

Observations from Experiences in
Other States relative to Sanctions 49

Statements by SENATOR CEDILLO re:

Ethical Challenge when Sanction Falls On Children for Actions of Parents	49
---	----

Statements by SENATOR DUTTON re:

Real Concern Is Fraud within County Programs and Services	50
--	----

Need to Have Programs in Place for Children	50
--	----

Motion to Confirm	53
-------------------------	----

Committee Action	53
------------------------	----

ROSARIO MARIN, Secretary State and Consumer Services Agency	53
--	----

Statements by CHAIRMAN PERATA re:

Update on Private Postsecondary and Vocational Education	53
---	----

Administration's Two-Prong Solution	54
---	----

Termination of Proceedings	54
----------------------------------	----

Certificate of Reporter	55
-------------------------------	----

APPENDIX:	56
-----------------	----

Written Responses to Committee Questions
By Appointees, as well as Written
Statements by Appointees Not Required to
Appear: Members of the Commission on the
Status of Women: DARLENE AYERS-JOHNSON,
LINDY DEKOVEN, and ELAINE E. SURANIE; and
JULIO E. SOARES, Member, Board of Pilot
Commissioners of the Bays of San Francisco,
San Pablo and Suisun

THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

JOHN BURNET

OF

OXFORD

IN TWO VOLUMES

LONDON

PRINTED BY

JOHN BURNET

OF

OXFORD

IN TWO VOLUMES

AND

THE

REIGN OF

CHARLES THE SECOND

BY

JOHN BURNET

--ooOoo--

CHAIRMAN PERATA: We have two appointees today from the Governor. If you have an agenda, we tricked you.

Ann, you are already keyed up and ready to come, but we're going to go to Terri first.

MS. DELGADILLO: She's feeling she got the good end of the deal.

Thank you, Mr. Chairman and Members, thank you. My name is Therese Delgadillo. And I appreciate you taking the time today to consider my appointment to be Director of the Department of Developmental Services. I'm really honored to have been appointed by the Governor to serve in this capacity.

I began my career in the 1970s, working in the area of special education, and I provided respite services for those with developmental disabilities. And while I've been fortunate to work in many capacities, I worked here in the Legislature for a while, and in Congress, and in the criminal justice system, and the Health and Human Services Agency, I've always wanted to return to the area of developmental disabilities. So, I'm really, really excited to be back in this position.

But I have to tell you, never did I dream I'd be in the position of Director. So, I'm very honored.

One thing's clear, though, in the 30 years that I've been out of the system, a lot of things have changed. The population has changed quite dramatically. We've got 212,000 consumers now, 98 percent of them live in the community.

1 Individuals are going to school. They're graduating from high
2 school. They're going on to college. They're in our --
3 involved in our workforce. We have many consumers that are
4 starting their own businesses. Consumers are living
5 independently, and things are very different than they were 30
6 years ago.

7 We're challenged in our system to keep pace with
8 all of that, to keep pace with the changes. We're doing some
9 exciting things, and I'm really looking forward to advancing in
10 the areas. For example, in one area we are developing housing,
11 where the housing will remain in the system in perpetuity. So
12 that if the service provider changes, the state doesn't lose its
13 investment, and the consumers don't have to be relocated.

14 We're also working closely with the State Council
15 on Developmental Disabilities to look at the area of job
16 training, and look at the area of day programs, because the
17 consumer needs have changed significantly over the last 20-30
18 years.

19 So, we've got a lot to do, but I've been
20 traveling around the state since I arrived in this position,
21 meeting with everybody: the families, the consumers, the
22 advocates, the developmental centers. I've been to half of the
23 regional centers to try to get an understanding of: what's
24 going on out there; what's working well; what are our models;
25 what can we share.

26 And the best thing of all is that everybody wants
27 to come to the table and work together. Everybody has the same
28 interests.

1 So, I'm really excited to be in this position and
2 really hope that you will confirm me. And thank you again for
3 the opportunity to be here today.

4 CHAIRMAN PERATA: Thank you.

5 Would you talk a little bit about the closure of
6 Agnews, where we are, and what's going on?

7 MS. DELGADILLO: Yes, sir.

8 Agnews Developmental Center is one of our five
9 developmental centers, and we have two community facilities.
10 The closure of Agnews has been ongoing for several years now.
11 The final plan was approved in '05.

12 We currently have about 256 consumers remaining
13 there. The facility was designed for many, many more. It's our
14 oldest facility. It was built in the late 1800s, and the
15 facility is very, very dilapidated. That's part of the reason
16 for the closure.

17 In the closure process, we're doing a lot of new
18 things, a lot of new and innovative things. Part of it was
19 trying to figure out, as opposed to just taking the consumers
20 and moving them to a developmental center, how do we provide
21 them opportunities to live in the community. At the same time,
22 how do we address issues that are of significant concern to the
23 consumers and to the family members, things such as health care,
24 such as continuity of care.

25 So we are, as a result of legislation passed by
26 the Legislature, we are doing a number of very creative things.
27 One is, we are working with the staff that work at the
28 developmental centers so that they can continue as state

1 employees working with the consumers in the community, so they
2 can follow them into the community.

3 The second thing is that we're acquiring
4 property, as I mentioned, that will stay in the system in
5 perpetuity.

6 We are on target. We were supposed to acquire
7 about 70 properties. We've got 25 that are now purchased, and
8 we have 9 more in escrow. We are slightly, a month or so,
9 behind on the renovations because getting some permits
10 locally -- I forget, we've got like 13 or 19 permitting
11 authorities, and that's been a bit of a challenge. The
12 development company hired additional construction firms so that
13 we can get back on track there.

14 We are working very closely with the families and
15 the consumers, looking at individual placement plans, and what
16 their individual needs are, preparing individual health plans
17 for each consumer to make sure that when they move to the
18 community, we have everything lined up, not just where they
19 would live.

20 So, I think we are close to on track with the
21 timeline that was anticipated in the plan, but there are a lot
22 of issues yet to come. And at this point, we are still
23 anticipating closure in June of '08.

24 CHAIRMAN PERATA: Any questions on that one?

25 Who's going to take that land?

26 MS. DELGADILLO: The plan that was established
27 originally that was approved by the Legislature through the
28 budget process assumes that the land will become surplus.

1 When -- the land was much, much bigger
2 originally, and parcels were sold off.

3 CHAIRMAN PERATA: So it's not as large as it was.

4 MS. DELGADILLO: It's not as large as it was
5 originally. And part of the original sale was to Cisco Systems,
6 which is located nearby, and as part of the arrangement with
7 them many years ago, they have first right of refusal if the
8 property actually goes on the market.

9 CHAIRMAN PERATA: We have somebody who used to
10 sit in that chair that was very big on surplus property. I hope
11 you continue that tradition.

12 SENATOR ASHBURN: I hope we can get fair market
13 value.

14 MS. DELGADILLO: It's definitely worth a lot more
15 than it was when we acquired it in the 1800s. It's prime land.

16 CHAIRMAN PERATA: Would you explain the process
17 of how people are placed? Do you have placement in community
18 versus the developmental centers? How does that break out?

19 MR. DELGADILLO: The process in terms of how it
20 breaks out, we have, just to give you an overview, 212,000,
21 roughly, consumers in our system, and slightly more than 2800
22 reside in developmental centers.

23 The decision on every consumer is made through an
24 individual planning process. Those that reside in the community
25 are provided services via 21 regional centers, which are
26 nonprofit organizations that are established by statute. They
27 were established by the Lanterman Act 40 years ago. And the Act
28 also sets out the whole process for determining what the needs

1 of the individuals are.

2 In addition to that, many of the individuals that
3 reside in the developmental centers arrive there via the court
4 process. So, we have a population at Porterville that arrived
5 via the criminal justice system. We also have consumers that
6 have arrived from the court because the court's determined them
7 to be a danger to themselves or others.

8 So, the population in the developmental centers
9 has decreased quite significantly over a number of years. But
10 regardless of where you live, everything for you is governed by
11 an individual planning process that involves the consumer, it
12 involves the families if they are involved, the regional center,
13 the service providers.

14 CHAIRMAN PERATA: And you have 212 --

15 MR. DELGADILLO: Roughly 212,000 consumers, of
16 which about 2800 are in the developmental centers. Population
17 in the developmental centers overall has been decreasing. We do
18 have a slight increase in criminal justice referrals.

19 CHAIRMAN PERATA: One of our favorite discussions
20 in Rules, at least the time I've been here, is the low pay
21 compensation and compaction. The fact that we have huge numbers
22 of people who are getting ready to bail out, or could bail out
23 of this place at any time, and there doesn't seem to be a plan.

24 But I notice in particular that the proposed
25 budget from the Governor increases, brings it up to 18 percent
26 of the standard.

27 I thought that was a misprint. I mean, close
28 enough for government doesn't even get close. That's almost

1 insulting.

2 I don't expect you to comment on that, but --

3 (Laughter.)

4 MS. DELGADILLO: Thank you, Senator.

5 CHAIRMAN FEAR: But just generally, how do you
6 manage staffing problems with the disparity and the retirement
7 issues?

8 MS. DELGADILLO: It's a key issue for our
9 department. Our department is really facing a major change in
10 staffing over the next few years.

11 As I mentioned before, the Lanterman Act, which
12 passed about 40 years ago, many, many staff came to the
13 department then, and many of them have stayed. I still have a
14 couple of retired assistants who actually wrote the Lanterman
15 Act and worked here with Frank Lanterman to do it. And they
16 stay on because of the love for what we do, and the passion for
17 what we do.

18 But our department has been very lucky to be
19 stable over these years because of people staying because of
20 their passion.

21 What's now happening, though, is these
22 people are now retiring, and we're not getting them back.
23 We're not getting them back, and we're not getting them back.
24 We're not getting them back, and we're not getting them back.

25 So, we're going to have a big change. We're
26 looking at it in terms of what we're going to do.

27 We're going to have a big change in the way we
28 work, and we're going to have a big change in the way we work.

1 week? Oh, that's great. One day? Take whatever we can get.
2 Want to travel to Europe for three months? We'll wait for you
3 to get back.

4 Anyway, but we're looking for ways of keeping
5 them and having them help train people.

6 We also have entered into contracts in a couple
7 of cases with the University of Davis in one. They're providing
8 training for our entry level managers, our mid-level managers.
9 We are bringing staff. When we have meetings, I tell the
10 deputies, "Bring the staff with you where you can," because they
11 need to learn what it's going to be like to move up in the
12 organization so that they can get those experiences.

13 At the developmental centers, which is where we
14 face the challenge that everybody in the state's facing on
15 medical care, we face the challenge there. We're doing some
16 innovative things.

17 We have been working at Porterville, for example.
18 We run some programs actually at all of our DCs, and Porterville
19 has one particular program as well, where we do what's called a
20 20-20 program, or something like that, where we pay somebody for
21 20 -- we pay them for 40 hours of work: 20 hours they work,
22 and 20 hours they get training. And then they get licensed and
23 they get certified. And at Porterville we're producing -- close
24 to 50 psych techs, for example, a year are coming to us as a
25 result of that.

26 And we need to grow that program. We need to
27 grow it throughout the state. And I was talking to Senator
28 Ashburn about that. We're also doing it in other areas.

1 In addition, we have been successful working with
2 the Department of Personnel Administration to get recruitment
3 and retention bonuses in some cases, and the authority to hire
4 above minimum in some cases, like with psychologists and some
5 classes we absolutely can't fill.

6 We are working with agency, and Ann will be
7 behind me. Unfortunately, I could have pointed to what she
8 said, because they're doing a wonderful job of succession
9 planning for the agency, and we're participating in their
10 activities as well, including doing open testing, doing on-line
11 testing.

12 So, we're looking for anything possible that we
13 can do. We're also focusing internally. We've identified
14 within all of our department staff to work on this issue, and
15 we're looking at developing more jobs where consumers can work,
16 either through the LEAP program, which is the entry level
17 program, or through supported employment programs.

18 CHAIRMAN PERATA: Have you ever thought about
19 running Corrections.

20 [Laughter.]

21 MS. DELGADILLO: Oh, I owe Nettie on that one. I
22 was there for awhile.

23 CHAIRMAN PERATA: I heard that, yes.

24 Just my final area of interest is autism. We've
25 been trying to struggle with that in a variety of different
26 ways.

27 But just from your office, and from your
28 perspective, where are we? Where do we need to be?

1 MS. DELGADILLO: On the first question, where are
2 we, I think over the last few years the department, really with
3 the help of stakeholders throughout the nation, throughout the
4 state, came together to develop best practice guidelines for
5 assessing individuals with autism. And those guidelines now are
6 in place, and people are using them.

7 We are now, as a result of the current year
8 budget, developing guidelines on best practices for intervention
9 and treatment, and that will help provide families and regional
10 centers and others with guidance on what works and what doesn't
11 work.

12 I think where we need to go, one of the biggest
13 issues is developing the resources in the community, because
14 there has been a significant increase in individuals identified
15 as having an autistic spectrum disorder. And we have seen
16 there's about 17 percent of our population today, and on any
17 given month, there could be up to 50-60 percent of the new
18 intake may be individuals with autism.

19 And the community has not caught up yet with the
20 population and the services. And, you know, I talk about being
21 involved 30 years ago. The system when it was set up was set up
22 for consumers or individuals that had Downs syndrome, epilepsy,
23 CP. And the system did not at that time have a lot of
24 individuals. I remember to this day two individuals in my
25 classroom that had autism in the entire time I worked there.

26 And now today, that's -- that's very different.
27 And so, I think the next step as we identify what the best
28 practices are, working with everybody, then that will help the

1 community, and working with the community, develop the resources
2 so the demand is there, and we need the services.

3 CHAIRMAN PERATA: Members?

4 SENATOR PADILLA: On that same subject area of
5 autism, when you were in my office we talked about the vastly
6 increasing number of consumers, and in particular the number of
7 cases of people with autism.

8 I'm just curious, and I'm not a doctor, but is
9 there any explanation for the rapid increase in recent years.

10 MS. DELGADILLO: I think, Senator, that's a
11 question that many, many people are looking into. And I don't
12 know that there's an answer yet.

13 And what has been identified, and there are
14 experts that know far more than I do about this, but what has
15 been identified is that autism isn't one specific disorder, but
16 it's spectrum of disorders. So, you may have an individual that
17 has full autism with serious disabilities. You may also have
18 someone on the other end of the spectrum that has Asperger's
19 syndrome. That -- there are probably people working here in the
20 building with us that have been diagnosed with Asperger's
21 syndrome, where, you know, it just -- it's not something that
22 we're aware of.

23 And I think that because there's a whole
24 spectrum, looking at that, the researchers are looking at maybe
25 there are different causes. Maybe there's not one specific
26 cause. They may be causing different types of things.

27 The -- there's this wonderful place, The MIND
28 Institute, I think I mentioned to you, that's connected with UC

1 Davis Medical Center here. And it's a phenomenal place. And
2 they're doing research, looking at those exact issues. And
3 they've identified some trends. They're identifying
4 susceptibility of the mother during pregnancy, and her immune
5 system. But what does that mean? You know, they're identifying
6 different things, and consistency between individuals that have
7 autism.

8 But I don't know that -- I don't know that
9 there's one answer. I don't know if there ever will be, because
10 it's a spectrum. But there's a lot of research going on. And
11 The MIND Institute is just phenomenal.

12 SENATOR PADILLA: Are there at least a couple of
13 initial theories? Is it genetic? Hereditary? Environmental?
14 What we're eating?

15 MS. DELGADILLO: I think the things -- and again,
16 I am really in a learning curve on this one, and this is an area
17 that I've been spending some time but need to get smart on.
18 There are many more people that know more than I.

19 But, you know, the things that we're hearing are,
20 one, the issue that I mentioned with the woman during pregnancy,
21 and whether her immune system is susceptible.

22 Another issue seems to be a nutritional issue,
23 and the types of nutrition, types of food that the individual
24 eats. And some of the treatments have been designed to change
25 the diets of the individuals, and they've seen improvement in
26 those areas.

27 Also, the immune system of the individual
28 themselves has been found to be particularly susceptible.

1 So, I think there are a number of things along
2 those lines, but I don't think they've identified. I don't
3 think they can put their finger on it.

4 But we can get you more. I'd be happy to share
5 with you the information that we have. There are some studies
6 going on, and I apologize, I don't know what the letters stand
7 for, but it's called the CHARGE Study, and it's a study that's
8 looking at a very, very broad number of people, and trying to
9 identify trends, and see if they can identify things that are
10 consistent that are happening. And the one thing that they have
11 come up with is the thing about the mother's susceptibility
12 during pregnancy. But there's more on that point.

13 SENATOR PADILLA: Thank you.

14 CHAIRMAN PERATA: Also, Dr. Lou Vismara, who's on
15 our staff, is very active in this area. Have him come in and
16 talk with you. He's done a lot of work.

17 Yes, Senator Ashburn.

18 SENATOR ASHBURN: Just a comment, Mr. Chair.

19 That is that I normally don't reveal how I'm
20 going to vote before the witnesses appear, but Terri Delgadillo
21 is extraordinary and extraordinarily well qualified for this
22 position, as I think she's demonstrated in our brief
23 conversation here today.

24 You're the best. And it's appreciated with all
25 of the people throughout, the many care givers, and community
26 members, and leaders of organizations that deal with a
27 vulnerable population. Your heart's there, your head's there,
28 and you're terrific.

1 We're very fortunate. Every once in a while, the
2 in right person gets into the right job.

3 [Laughter.]

4 SENATOR ASHBURN: So, we ought to celebrate that.
5 I'll make the motion.

6 CHAIRMAN PERATA: It's the law of random
7 selection; right.

8 [Laughter.]

9 MS. DELGADILLO: I went through the Corrections
10 jobs and some others first.

11 CHAIRMAN PERATA: Speaking of Corrections --

12 [Laughter.]

13 CHAIRMAN PERATA: I just would like anybody here
14 who is here to support the nominee, she's in her mother's arms
15 here. So, what we'd like you to do is just your name, rank, and
16 serial number. We'll try keep this as brief as possible, except
17 for the woman in the back in the beret who is my niece. She can
18 talk as long as she wants.

19 [Laughter.]

20 CHAIRMAN PERATA: So, please come forward.

21 MS. BITTNER: I'm Sascha Bittner. I'm a person
22 with developmental disability.

23 MR. KERZIN: This is Sascha Bittner. She is the
24 Chairperson of the State Council on Developmental Disabilities.

25 MS. BITTNER: I had a really big speech, but I'll
26 just say that Terri is wonderful to work with. She knows the
27 system. She is the person we asked to come back, and we are in
28 very, very strong support.

1 CHAIRMAN PERATA: Thank you.

2 MR. KERZIN: I'm Alan Kerzin, Director of the
3 State Council.

4 CHAIRMAN PERATA: Thank you for being here.

5 Yes, sir.

6 MR. ROLLINS: Mr. Chairman and Members, Rick
7 Rollins. It's always an honor to be back in this room. I spent
8 24 years of my career working in the Senate. I sat there for 16
9 years as a consultant to this Committee, the creator and
10 director of the Office of Senate Floor Analysis, and previously
11 the Secretary of the Senate.

12 Greg is doing a terrific, terrific job.

13 I appreciate the opportunity to be here.

14 I'm here today as a parent of a child with
15 autism. I'm co-founder of the UC Davis MIND Institute, along
16 Dr. Vismara.

17 I'm also on your Legislative Blue Ribbon
18 Commission on Autism.

19 And I'm here to really speak in strong support of
20 Terri Delgadillo. She's the right person for the job. She's
21 committed, and we're very lucky and fortunate to have her.

22 Thank you.

23 CHAIRMAN PERATA: Thank you.

24 MS. DOVE: Good afternoon, Chairman Senator Don
25 Perata, Vice Chair Ray Ashburn, Senate Rules Committee, it is a
26 privilege to be here.

27 I'm always nervous, but my name is Shirley Dove.
28 I am the young mother of a 53-year-old daughter who works --

1 [Laughter.]

2 MS. DOVE: I was only nine at the time.

3 Vera lives in her own home with two roommates and
4 works for the Ventura County ARC. She is served with supported
5 living to be an independent lady, and she will tell you that
6 often.

7 I am here today representing the ARC of
8 California. I am the President and incredibly support this lady
9 to my right. I've got to know her, you were very right, there
10 could not be anybody better for this job than Terri Delgadillo.

11 CHAIRMAN PERATA: Thank you.

12 MR. ROGERS: Good afternoon, Senators.

13 My name is Santi Rogers. I'm the Executive
14 Director of San Andreas Regional Center. We serve 11,000
15 clients in the Counties of Santa Clara, Monterey, San Benito,
16 and Santa Cruz.

17 This is my 39th year of serving people with
18 developmental disabilities, which is an honor. I've had the
19 pleasure of directing four state developmental centers, some of
20 them a couple times, and Porterville was one of them. So, I've
21 been in your great county of Tulare County, and all that other
22 great stuff in the Central Valley.

23 This is a great day when you have this kind of
24 quality serving California. It's a great day.

25 You know what to do. Thank you very much.

26 CHAIRMAN PERATA: Thank you.

27 MR. LONG: Mr. Chairman, thank you for letting
28 me share the comments, and Senators, thank you Members.

1 On behalf of People First of California,
2 Incorporated, which is a grassroots self-advocacy nonprofit
3 organization, having over 100 chapters throughout the State of
4 California with developmental disabilities around the state, we
5 want to offer our support in the hiring of Terri this
6 afternoon.

7 In closing, I would like to be able to say Terri
8 has included a lot of consumers in her work in the situation of
9 committees, and from phone conference calls, and everything that
10 you can imagine.

11 And so, I would encourage you to be able to take an
12 aye vote today and being able to hire her, because she is the
13 one for the job.

14 And I'd like to be able to give this to the
15 Chairman, if all possible.

16 CHAIRMAN PERATA: The Sergeant will take that,
17 sir.

18 Thank you.

19 MR. CLARK: Senator Perata, Senators, as with
20 all of the other speakers, thank you very much for allowing us
21 to be here today.

22 I'm Mike Clark, the Director of Kern Regional
23 Center in Bakersfield.

24 This is my daughter, Marnie, who gives me a
25 special reason for liking my job and being involved with this
26 system.

27 We are both here to speak in support of Terri.
28 She has actually come to our area a few times already in her

1 short term as Interim Director of the Department.

2 We've never seen anyone from the
3 administration -- no hard feelings intended toward anyone --
4 who has been able to bring people together, that Terri is able
5 to get folks from a wide variety of interests together and work
6 with us all to help us find out elements of common ground, and
7 then energize us to move ahead toward actualizing whatever
8 plans, agreements, we come up with. I think that that is a
9 wonderful quality and just a breath of fresh air for our system.

10 So, I encourage you all to support Terri. Good
11 times lie ahead.

12 And I think Marnie has one very brief thing to
13 say.

14 CHAIRMAN PERATA: Certainly.

15 MS. CLARK: I want to say I am in support of
16 Terri.

17 CHAIRMAN PERATA: Thank you.

18 MR. CLARK: Thank you.

19 CHAIRMAN PERATA: Let's see you beat that.

20 MS. DELGADILLO: He's not getting a hug either
21 way.

22 [Laughter.]

23 MR. BALDO: As you see, we know each other.

24 [Laughter.]

25 CHAIRMAN PERATA: Yes, I got that.

26 MR. BALDO: Senator Perata, Committee Members, my
27 name is Bob Baldo. I'm the Executive Director of the
28 Association of Regional Center Agencies. Our agency represents

1 the 21 regional centers in California that serve persons with
2 developmental disabilities.

3 I've been in the system for about 35 years -- 36,
4 a little less than Santi. So, I've seen a number of directors
5 at the Department Developmental Services, and I've been in the
6 system in various different capacities, including regional
7 center director, and also at the state level.

8 In my opinion, strong opinion, for the system to
9 work it requires strong cooperation between the Department of
10 Developmental Services and the regional centers.

11 Terri and I have been working together now since,
12 I believe, March is when she was first appointed as the Chief
13 Deputy Director of the Department. And I can say with all
14 candor that Terri has reached out to us. We work in a team
15 capacity to make the system work.

16 Terri has the managerial skills, she has the
17 insight, and the intelligence, and the capability to go forward
18 in a system that's incredibly dynamic, very, very difficult to
19 administer, but one that has great rewards when we all work
20 together. And Terri is the person that can help us bring us do
21 -- bring us to that point and that goal that I just described.

22 I urge your support. Thank you.

23 CHAIRMAN PERATA: Thank you.

24 MR. BURTON: Senator Perata and Members of the
25 Committee, thank you for the opportunity to speak.

26 I'll keep my comments brief. I'm Jim Burton,
27 Executive Director of Regional Center of East Bay, headquartered
28 in Oakland.

1 Nice to see you, Senator.

2 CHAIRMAN PERATA: You, too.

3 MR. BURTON: We did send in our strong
4 recommendation as a regional center, and I just would like to
5 say a few quick things.

6 Terri Delgadillo is just an outstanding leader.
7 And she's demonstrated in just a very short time that she's been
8 here that she's an outstanding leader, an extraordinary manager,
9 but most importantly, she's demonstrated how genuinely she cares
10 about each and every one of the 212,000 people that she would
11 like to serve. I respect her very much for that and appreciate
12 if you would support her also.

13 Thank you.

14 CHAIRMAN PERATA: Thanks for being here, Jim.

15 MS. LYONS: Hi, I'm Elizabeth Lyons. I'm from
16 North L.A. I'm on the Board of Directors, and I'm LACRC Chair.

17 And we came here today to support Terri. And
18 she's very, very consumer oriented. She want us to speak for
19 ourselves. She has a lot of different committees, and she all
20 the time make sure that consumers on it.

21 I've known her for a year now, and she is just --
22 you could go talk to her, and she takes the time.

23 And that's it.

24 MR. STEVENS: My name George Stevens. Thank
25 you, Senator Perata, and Members of the Committee, for having us
26 here today.

27 I'm the Executive Director for the North Los
28 Angeles County Regional Center. We're headquartered in the San

1 Fernando Valley.

2 We're here today to support Terri to the position
3 of Director of Department of Developmental Services.

4 In working with Terri, I found her to be a person
5 of very, very high character, a person that's committed to the
6 field of developmental disabilities, and brings a sense of
7 caring to this job, and I think that's extremely important.

8 I give unqualified support her appointment.
9 Thank you.

10 CHAIRMAN PERATA: Thank you both.

11 MS. WONG: Good afternoon. My name is Gloria
12 Wong. I'm the Executive Director of the Eastern Los Angeles
13 Regional Center. We serve a large portion of the diverse
14 community that is represented by the Honorable Gilbert Cedillo.

15 I am here on behalf of the Board of Directors,
16 the constituency that we serve at Eastern Los Angeles Regional
17 Center, to wholeheartedly support the appointment of Terri
18 Delgadillo.

19 I think you have heard through her own testimony
20 and those that have come up to this microphone ahead of me, she
21 is truly committed to justice and equality for consumers with
22 developmental disabilities, and her actions and her decisions in
23 her short term as Interim Director has proven that, which is why
24 our community of Eastern Los Angeles Regional Center, they have
25 witnessed that, and they are proud to be supporting Terri
26 Delgadillo.

27 She is an able leader, and I think we are the
28 luckier for it. So, I'm saying nothing that you haven't heard

1 already. So, commitment from Eastern Los Angeles Regional
2 Center.

3 CHAIRMAN PERATA: Thank you.

4 Anybody here from West L.A?

5 [Laughter.]

6 MS. CLARK: Good afternoon, Senators. My name is
7 Mary Lynn Clark, and I'm the Director of Inland Regional Center.
8 My regional center serves San Bernardino and Riverside County.
9 We're the largest regional center. We have 21,000 consumers in
10 our area.

11 Like Gloria, we're here to offer our support on
12 behalf of the board and our constituency on behalf of Terri
13 Delgadillo.

14 Terri has visited our area, which is kind of
15 unique. We're not on the main path of folks that do the
16 visiting.

17 CHAIRMAN PERATA: Oh, au contraire. We all go
18 down there.

19 Don't you call yourselves the Inland Empire?

20 [Laughter.]

21 MS. CLARK: Well, the former director, who was a
22 colonel, often referred to us as the empire, yes.

23 [Laughter.]

24 MS. CLARK: But Terri has been to our area, and I
25 went with her. We visited a number of homes and a number of
26 programs, and met a number of clients. And I was struck, as Jim
27 was, about the genuineness of her caring for people with
28 disabilities. She is really engaged in their issues. You know,

1 she looked into their eyes as she talked with them, and there
2 was just a real connection with the people that she worked with.

3 I also have found her to be a very courageous
4 leader. She makes decisions. You're probably familiar with the
5 CADDIS project that has gone on and on and on. And we were a
6 pilot center. We were very involved in its creation, such as it
7 was. Terri did the very brave thing of pulling the plug on that
8 when it was time.

9 We really want to support her in this position.
10 Thank you.

11 CHAIRMAN PERATA: Thank you.

12 MR. LONDON: Mr. Chairman and Members, Carl
13 London, here today to represent the California Rehabilitation
14 Association, a community-based nonprofit that support this
15 population in communities throughout the state.

16 We're in strong support of Terri for this
17 position. And as a parent myself of a ten-year-old, I can't
18 think of a better person for the job. She really does a
19 tremendous job, and is committed to the population, and unusual
20 in that regard. And we really appreciate her being in this
21 spot.

22 CHAIRMAN PERATA: Thank you, Carl.

23 MS. BLAKEMORE: Hi, good afternoon. Catherine
24 Blakemore, I'm the Executive Director of Protection and
25 Advocacy. We're a statewide advocacy organization that assists
26 people with disabilities. And we also provide the clients
27 rights advocates at each of the 21 regional centers.

28 And it's our pleasure to speak in favor of Terri

1 Delgadillo's appointment as the Director. She has been a person
2 who very quickly has established leadership in the department
3 and a vision. She's clearly committed to all consumers,
4 including consumers from underserved communities.

5 She, very shortly after becoming the Director,
6 stepped up and made sure that notices were translated into
7 other languages, something that, from our perspective, had been
8 languishing in the department for sometime.

9 And she's clearly a consensus builder, and
10 brought members of parts of the system together that had maybe
11 not been talking for too long.

12 So, I think she's just excellent and will do a
13 fabulous job. Thank you.

14 CHAIRMAN PERATA: Thank you.

15 MR. DAVENPORT: Mr. Pro Tem, how are you today.

16 CHAIRMAN PERATA: Just fine, thank you.

17 MR. DAVENPORT: Allen Davenport. I'm the
18 Director of Government Relations for the Service Employees
19 International Union. We are the largest union in the regional
20 centers, the largest union in the community programs that
21 contract with the regional centers, and the largest union of
22 state employees who work in the developmental centers.

23 We have lots of opportunities to encounter the
24 programs and the creativity that Terri Delgadillo is in charge
25 of.

26 And we would like just echo what Senator Ashburn
27 said. What he says goes for us, too.

28 CHAIRMAN PERATA: Thank you. We want a moment of

1 silence.

2 [Laughter.]

3 SENATOR ASHBURN: Welcome to the post-partisan
4 era.

5 [Laughter.]

6 MS. DeBELL: Good afternoon, Senator Perata and
7 Committee Members. My name is Terri DeBell. I am President of
8 CASHPCR, which is the family organization that represents the
9 families and friends of the developmental center residents.

10 We are wholeheartedly in support of the
11 appointment of Terri Delgadillo as Director of DDS.

12 Our family members face many challenges beyond
13 their developmental disability, and Terri has already started to
14 work with us and other people to help solve some of these.

15 So, we again are very much in favor of this, and
16 we are grateful for her vision and her compassion.

17 I have submitted testimony for you to read
18 also.

19 CHAIRMAN PERATA: Thank you for being here.

20 MS. McCULLOUGH: Good afternoon, Senators. Thank
21 you for allowing me to speak. My name is Sibby McCullough. I'm
22 the parent of a man with developmental disabilities. And I'm
23 also on the Board of Developmental Disabilities Area Board
24 Three.

25 We have found Ms. Delgadillo to be responsive and
26 very involved with those people that she has been and will
27 serve, and we urge you to confirm this appointment.

28 Thank you.

1 CHAIRMAN PERATA: Thank you.

2 MS. EVANS: Hello.

3 CHAIRMAN PERATA: Good afternoon.

4 MS. EVANS: I'm honored to be here.

5 I'd like to put a face and a name to some of the
6 successful things that are going on, in part as a result to
7 Terri and so many other fantastic people.

8 My brother, Dan Evans -- by the way, my name is
9 Lori Evans.

10 My brother, Dan Evans, resided at Sonoma
11 Developmental Center for over 20 years. And he's profoundly
12 retarded. He's blind. He's not able to communicate with words,
13 but after a lot of work, team effort and dedication, we sprung
14 him last October. And he is now living in a house that was
15 referred to, you know, as kept in perpetuity as long as he needs
16 it.

17 He's got a staff of wonderful people that care
18 for him. He's living on his own in the community next to --
19 near his family. This is something we've wanted all our lives.
20 This is something that's just been an awesome opportunity for
21 not only him, but his whole family, and the staff that has
22 become family to us.

23 And I tell him he's living like a rock star.

24 [Laughter.]

25 MS. EVANS: He's got all these people looking
26 after him.

27 His abilities -- his ability to communicate, I'm
28 learning what foods he likes. I went up and cooked him the best

1 vegetarian spaghetti sauce I've ever made a couple weeks ago.

2 I just want to let you know that this is so, so
3 important to so many families. And it's with the forward
4 thinking and openmindedness of Terri and so many other people
5 that this is happening. And I just hope that this opportunity
6 can be offered to so many more people.

7 Thanks.

8 CHAIRMAN PERATA: Thank you. Thank you for being
9 here.

10 MR. OMOTO: Marty Omoto, California Disability
11 Community Action Network. I'm a family member. My older sister
12 had developmental disabilities. She passed away a couple years
13 ago.

14 But during that process over the past 30 years,
15 Terri Delgadillo has been one of the few people I've met who has
16 been extraordinary in the system, though some people will say
17 that I don't get out very much.

18 [Laughter.]

19 MR. OMOTO: But for all the people I do meet when
20 I get out, she's number one.

21 I want to give our organization's remarks. I
22 want to give it to the Sergeant because he's not looking too
23 busy there.

24 Terri Delgadillo, as Senator Ashburn said, is
25 remarkable. She is extraordinary. She has earned our respect,
26 and she deserves our support.

27 We are urge her confirmation. And let's party
28 afterwards.

1 CHAIRMAN PERATA: You betcha.

2 MR. BANNET: Senator and Members, thank you for
3 this opportunity. My name is Phil Bannet. I am the Executive
4 Director of the Alta California Regional Center, Sacramento's
5 own regional center. We serve about 15,000 consumers and their
6 families in Sacramento and in nine surrounding counties.

7 I've had a great opportunity to get to know
8 Terri, partly because I'm here, but even if I weren't here, I'd
9 get a chance to know her because she has spent so much time on
10 the road, visiting with our colleagues around the state.

11 I have to echo all of the positive things that
12 have been said. And I want to say also that I believe that
13 Terri is the right person to make the difficult decisions that
14 need to be made. Our system is facing great change, and I can't
15 imagine a better person to lead us through this change.

16 Thank you.

17 CHAIRMAN PERATA: Thank you.

18 Well, Terri what do you have to say for yourself?

19 [Laughter.]

20 MS. DELGADILLO: I better stop while I'm ahead.

21 Thank you all. I want to thank everybody.

22 CHAIRMAN PERATA: You're way far ahead. I
23 haven't quite heard anything this glowing.

24 And my niece, who for some reason didn't want to
25 speak -- I'm not going to correct your English.

26 [Laughter.]

27 CHAIRMAN PERATA: Gina e-mailed me after she had
28 met you and spoke glowingly.

1 No one's going to come here in oppose. Did I
2 leave the opposition out? Does anyone want to come in here and
3 speak negatively? Just wanted to check. Very smart, very
4 wise.

5 Anyway, it was from my own family member who's
6 dedicated her life to doing what you do, so it was high, high
7 commendation.

8 I want to thank you for what you're doing. All
9 of us have an abiding interest in the work that you do, so I
10 hope that this won't be the last time we see you.

11 MS. DELGADILLO: Absolutely not.

12 CHAIRMAN PERATA: I admire the fact that you're
13 not going to places like Carmel and La Jolla. You're going to
14 Galt and the Inland Empire, Porterville. My kind of woman.

15 [Laughter.]

16 CHAIRMAN PERATA: Do you have any family with you
17 today?

18 MS. DELGADILLO: I do not.

19 CHAIRMAN PERATA: We have a motion by Senator
20 Ashburn. Please call the roll.

21 SECRETARY WEBB: Cedillo.

22 SENATOR CEDILLO: Aye.

23 SECRETARY WEBB: Cedillo Aye. Dutton.

24 SENATOR DUTTON: Aye.

25 SECRETARY WEBB: Dutton Aye. Padilla.

26 SENATOR PADILLA: Aye.

27 SECRETARY WEBB: Padilla Aye. Ashburn.

28 SENATOR ASHBURN: Aye.

1 SECRETARY WEBB: Ashburn Aye. Perata.

2 CHAIRMAN PERATA: Aye.

3 SECRETARY WEBB: Perata Aye. Five to zero.

4 CHAIRMAN PERATA: Five-zero, congratulations.

5 We will not be offended if anybody wants to
6 leave. We understand.

7 Ann, step up. Welcome.

8 MS. BOYNTON: Thank you.

9 CHAIRMAN PERATA: You may go ahead.

10 MS. BOYNTON: Thank you.

11 Good afternoon. Thank you for the opportunity to
12 appear before you and discuss my qualifications to serve as
13 Undersecretary for the Health and Human Services Agency.

14 I'm honored that Governor Schwarzenegger has
15 placed his trust in me to run this vital agency, and I can't
16 think of better way to serve the people of California than by
17 serving in this agency.

18 Within the agency, my specific responsibilities
19 focus on legislation, legal, personnel administration, external
20 affairs, and information technology. As Undersecretary, I'm
21 responsible for the successful operation of these areas within
22 all of our departments. I oversee public health issues, and
23 emergency preparedness and response within the agency, serving
24 as the Chair of the agency's Disaster Coordinating Council.

25 The Disaster Coordinating Council is made up of
26 the directors and chief deputies of our departments and serves
27 as the mechanism for the Secretary and I to coordinate action
28 and policy in a disaster. I'm responsible for our agency's

1 interaction with other agencies, such as Food and Agriculture,
2 Homeland Security, the National Guard, and the Office of
3 Emergency Services. In addition, I work closely with the
4 Secretary on issues related to the Olmstead Initiative.

5 The Governor has continually articulated a vision
6 of shared responsibility between individuals, government, and
7 business leading to a more prosperous California. Nowhere is
8 that vision of shared responsibility more important than in the
9 Health and Human Services Agency. We work closely with our
10 county partners in the implementation of public health programs,
11 welfare, food stamps, child support, mental health services, and
12 emergency response systems. Partnerships between both public
13 and private medical providers are key to our continued coverage
14 of millions of Californians in the Medi-Cal and Healthy Families
15 Programs. Collaboration with community-based organizations,
16 nonprofits and others, is integral to the implementation of our
17 alcohol and drug programs, services to the elderly, food banks,
18 financial assistance for heating and cooling of homes,
19 vocational rehabilitation for people with disabilities,
20 licensing of health care facilities, care homes, and child care
21 facilities, tobacco cessation, and diabetes prevention and
22 control, and in-home supportive services.

23 The executive and legislative branches share
24 tremendous responsibility to ensure that programs are conceived,
25 designed and implemented that foster the independent spirit that
26 underpins California's greatness.

27 I look forward to working with you on this
28 important endeavor.

1 CHAIRMAN PERATA: Thank you.

2 I see that you're heading up a work group on
3 succession planning?

4 MS. BOYNTON: I am.

5 CHAIRMAN PERATA: Give us your thoughts on it.

6 First of all, I'm happy to hear that. What's
7 going on so far?

8 MS. BOYNTON: The agency, about two years ago,
9 launched an effort -- I'd like to claim credit for it, but was
10 underway when I arrived -- launched an effort that looks
11 coherently across all of our departments at the succession
12 planning problem that we have. We have about 70 percent of our
13 managers who are within five years of retirement, a truly
14 terrifying statistic.

15 We've approached the problem from a number of
16 different levels. There is sort of the entry into state
17 government that's part of our concern. That is, getting
18 qualified people in at something above the very, very bottom
19 levels of civil service staff. And so, we've been working with
20 the State Personnel Board to institute on-line testing to make
21 it easier for people to take tests.

22 But more importantly, I think, and very, very
23 exciting are open exams, as they are called, wherein we are
24 testing people at a manager level to come into state government
25 without having to start at the bottom and work their way up.
26 So, we're bringing people in, more experienced, better managers,
27 managers who have private sector experience, in at higher
28 levels.

1 The other part of the work that we are doing is
2 focused on our own staff. We have twelve -- eleven departments
3 and a board, soon to be twelve departments and a board, as you
4 all know, within our agency. The people who work in our agency
5 focus on these problems, these areas, for particular reasons.
6 That is, they're dedicated to this. They like to work with
7 counties. They want to work with consumers. And we have common
8 concerns across our departments relative to those staff.

9 So, we've taken an enterprise look at what does
10 that planning need to look like? We are instituting consistency
11 testing across our analyst classes so that we're sure that an
12 analyst in Terri's department has the same kinds of skills as an
13 analyst in the Department of Mental Health. And our directors
14 and our personnel folks know then what to expect across
15 departments.

16 The other area that we are very excited about is
17 two different training approaches. One is a supervisor's
18 academy. We're in the pilot phase of that right now. It's
19 three sets of -- three classes of 30 supervisors each, taken
20 over a seven-month period, where we do intensive training that's
21 focused on our agency. It works through our core competencies,
22 the areas that we want our managers, our supervisors to focus
23 on.

24 We're just about finished with the first set of
25 that training. We'll then do our de-brief, look at how we need
26 to make changes to the process, and continue that. We're hoping
27 to expand it beyond just the 90 that we can take at a time.

28 The other part is then, now that we've got the

1 supervisors, is of course the higher level, the managers
2 academy. We are -- have just received proposals from companies
3 to provide us with a management development academy, which will
4 focus on our manager and lower CEA levels, grooming them in
5 policy, learning how to manage agencies from a strategic
6 direction. And again, that's agency-wide, supported by all of
7 our departments. All of our departments contribute staff and
8 financial support to both -- to all of the efforts that we've
9 got underway.

10 CHAIRMAN PERATA: Are you looking at hiring Cal
11 Works recipients?

12 MS. BOYNTON: We do look at that, yes. I can get
13 you more details. I apologize.

14 CHAIRMAN PERATA: No, don't apologize. I would
15 like to know how that fares.

16 MS. BOYNTON: Yes.

17 CHAIRMAN PERATA: In the area of IT, one of the
18 things that we've seen, I think there's been two consistent
19 things on confirmation. One is the workforce crisis, and the
20 second is, everybody has an IT need. Your IT needs must compete
21 with other funding needs within the department, even though
22 there might be a case to be made that there's cost avoidance.
23 There is no separate emphasis?

24 MS. BOYNTON: Well, it depends on the department.

25 The Department of Social Services has probably
26 the most complex and integrated systems in the state. They are
27 very -- because they serve all of the counties in addition to
28 serving state needs.

1 Those are managed through the Office of Systems
2 Integration. That staff is -- which operates through the agency
3 and reports to me -- that staff focuses entirely on information
4 technology projects and works very closely with the Department
5 of Social Services to make sure that the systems are meeting the
6 needs of the department and the county stakeholders that we're
7 serving. That, because it's an isolated entity, and frankly has
8 incredibly large, very complicated projects, their staff are
9 fairly stable. They also have a large contractor base.

10 Some of the other departments, frankly, as you
11 know, and it was mentioned previously, have struggled on the IT
12 front. We are looking through our Agency Information Officer at
13 ways to ameliorate that problem, and how we can bring to bear
14 the expertise that we have in OSI and in the Department of
15 Health Services in their project management areas to other
16 departments within our agency, so that we don't fall into the
17 same traps that we have done before.

18 Any time we see a failure of a project, we take
19 the time at agency. I work with staff to make sure that we
20 understand what were the factors that led to that failure, so
21 that we can make sure the next time we go into an effort, we've
22 done everything we can to eliminate that problem.

23 CHAIRMAN PERATA: I always look to you now.
24 Notice that?

25 SENATOR PADILLA: I'm always good for a couple of
26 questions.

27 Going back to the recruitment issue, or the
28 succession plan issue, and the recruitment element of that, I

1 noticed, you talked about training, you talked about a number of
2 things.

3 You didn't mention workforce diversity in your
4 response, and I'd love to get your thoughts on that.

5 MS. BOYNTON: I think our agency, obviously,
6 works with and is therefore -- works with a wide variety of
7 stakeholders in a number of ways.

8 I can get you specifics statistics on the
9 diversity. Within our agency, we are always looking to ensure
10 that we can deliver services in the most appropriate way to
11 people in the way that is culturally appropriate to them. We
12 recognize very keenly that there are differences in the way that
13 people understand things, that government is extremely
14 inaccessible to some people. And that the extent to which any
15 of our programs are not delivered in a culturally appropriate
16 way, we've impeded their ability to access those programs. And
17 ensuring that we are able to get over those barriers is always
18 of importance to us.

19 SENATOR PADILLA: And it's a case of, if we're
20 doing better today than we were a few years ago, but we can
21 still do better.

22 MS. BOYNTON: Yes, most certainly.

23 SENATOR PADILLA: Be cognizant about it --

24 MS. BOYNTON: Yes.

25 SENATOR PADILLA: -- going forward.

26 MS. BOYNTON: Yes.

27 SENATOR PADILLA: One of the areas of particular
28 concern to me, and we had a chance to discuss this briefly in my

1 office, was the rate of diabetes these days. It's growing at
2 epidemic proportions, and I don't use those terms lightly.

3 MS. BOYNTON: Right.

4 SENATOR PADILLA: One in every four children
5 being born from the year 2000 on will develop diabetes. That's
6 the rate at which we're going. For communities of color, it's
7 twice that.

8 How are we tackling the problem?

9 MS. BOYNTON: The Governor, as you know, has
10 articulated a very clear vision for a healthy California, and
11 focuses that in the areas of prevention: diabetes education.
12 90-95 percent of the Californians who have diabetes have Type
13 Two diabetes, which means that we probably could have done
14 something about that.

15 It's a matter of education. It's a matter of
16 changing the way that we think about food. It's a matter of
17 making sure that parents are making good choices for their
18 children, that schools are making healthy food available to
19 them, that we are focused on ensuring that that broad spectrum
20 of every aspect that touches people's lives is focused on
21 healthy choices.

22 SENATOR PADILLA: Any particular initiatives to
23 help bring about better choices and decision making?

24 MS. BOYNTON: Within the -- the Governor has
25 published his Obesity Strategic Plan, which articulates a very
26 broad cross-sectoral discussion of ways that all of us in shared
27 responsibility can start to address the problem of obesity. And
28 I point to that because, of course, obesity and diabetes tend to

1 be very closely tied.

2 That articulates a vision that it is not just, of
3 course, government's obligation. It is always government's
4 obligation. It is not only government's problem to fix this.
5 We need to change, as we've done with tobacco. We need a change
6 in the way that society thinks, and the Governor's Strategic
7 Plan points to that.

8 Within the Health Care Reform Proposals, obesity
9 and diabetes prevention and education is an important part of
10 the work that the Governor has articulated.

11 SENATOR PADILLA: Would you agree that having
12 good information is necessary for making good choices?

13 MS. BOYNTON: Absolutely. And the ways that we
14 approach people need to be grounded in research and science that
15 will yield the results -- that will demonstrate that it will
16 yield results.

17 SENATOR PADILLA: Other area of big concern is
18 in-home supportive services.

19 MS. BOYNTON: Absolutely.

20 SENATOR PADILLA: In the Governor's proposed
21 budget, there's not funding on the state side that goes for
22 further computation of the people who do really God's work in
23 the homes of many ill and, in a growing number, elderly homes.

24 A lot of cash-strapped counties are out there, so
25 how do we resolve that?

26 MS. BOYNTON: The Governor -- care for people in
27 their home and retaining, allowing people that very important
28 choice of remaining in their home is of critical importance to

1 the Governor. And he has, since he took office, been focused on
2 that.

3 In 2004, he negotiated with Secretary Levitt an
4 in-home supportive services waiver that will bring in an
5 additional \$1.7 billion to allow about 66,000 elderly and
6 disabled to remain in their homes.

7 The Governor's proposal this year in the budget
8 does suggest a cap on the state's share of service -- of the
9 contribution to wages. This is driven partly by the current
10 fiscal situation that we are in, and the tremendous growth of
11 the programs. Since 1998-99, the program has grown 222 percent,
12 and half of that has been in wages.

13 What we are -- what our proposal is seeking to
14 do, and we look forward to discussing this with you as we move
15 forward through the process, is ensure that we are able to
16 continue to provide services. We looked at the -- it's the rate
17 of growth that is of concern to us, and we are looking for ways
18 to begin to help contain that.

19 SENATOR PADILLA: I'll leave it with this, and
20 not necessarily in the form of a question.

21 To continue to provide services with an aging
22 population, the need for services is going to grow. So, yet
23 another area where I think the field is going to require
24 recruitment to more and more workers. And if wages aren't what
25 a lot of us would feel are just and fair today, and they're
26 certainly not growing towards that, as the cost of living
27 increases, we're not going to be encouraging people to enter a
28 field that the need is going to be continuing to grow.

1 So, I ask you to think about that and look
2 forward to working with you on that.

3 MS. BOYNTON: Thank you.

4 SENATOR ASHBURN: Just one question, Mr.
5 Chairman.

6 And this has to do with the licensing and
7 certification requirements for health facilities, and the others
8 that come to your agency to get approval.

9 One of the big concerns that we have is access to
10 care, cost of care.

11 The state doesn't have a very good reputation for
12 efficiency in granting licenses, and certifications, and
13 inspections.

14 I'm just wondering what you're going to do about
15 that?

16 MS. BOYNTON: The -- over the past two years, the
17 departments and the agency have been addressing the workload
18 need. And as we discussed, I know you're not always in favor of
19 throwing bodies at things, but we have -- those areas have been
20 understaffed and have resulted in backlogs that we need to
21 address.

22 In addition, the Department of Health Services is
23 working with clinics to understand what their concerns are about
24 streamlining processes, and we'll continue that process.

25 We're also working with CMS at the federal level
26 to volunteer where we can to serve as pilot entities for
27 increased technology, streamlined processes, different
28 approaches to licensing -- the licensing and certification

1 that's governed by the feds. And what that buys us is the
2 ability to implement those processes first, and we're seeing
3 good results from those as well.

4 SENATOR ASHBURN: I know, we just had this
5 conversation yesterday, but have you had a chance to take a look
6 at the timelines that are existing today for the application for
7 certification? How long it takes for licensure and
8 certification to be approved in all the different categories?

9 MS. BOYNTON: I have not had the opportunity to
10 get all that detail yet, but I will get that, and we will follow
11 up.

12 SENATOR ASHBURN: When you do that, would you get
13 that to me?

14 MS. BOYNTON: Absolutely.

15 SENATOR ASHBURN: And to the other Members of the
16 Committee, because one of the first things that we need to do,
17 it seems to me, is to take inventory of what we do and how we do
18 it. And I think that would be revealing.

19 It's expensive for facilities to come on line.
20 And as we're trying to provide more services at an affordable
21 cost, what you do.

22 And then the other conversation that we had
23 yesterday was, the effort to solicit from the provider community
24 their ideas for how you can do your work better.

25 I know that everybody inside the state
26 organization thinks that they're the geniuses and know it all,
27 but you know, usually our customers have a pretty good idea,
28 too.

1 MS. BOYNTON: We do recognize that we are not
2 always the geniuses in these processes, and are working actively
3 with the clinics to ensure -- to listen to their suggestions,
4 and what it is that we can do differently to streamline this
5 process.

6 SENATOR ASHBURN: I'd like to see that more
7 formal. I'd like to see an actual timeline for outreach to the
8 providers, or, in an organized way, actively solicit their views
9 on how the department does its work, the ways in which our
10 systems can be reorganized.

11 And that is what prompted my comment about simply
12 adding bodies, which happened last year in the budget process.
13 We added more people to the staff, but if you've got a broken
14 system, simply adding bodies to something that doesn't work, or
15 shouldn't be organized that way, doesn't make a lot of sense to
16 me.

17 And so, I would offer that, and perhaps it's
18 something we ought to kick over to Budget Sub to take a look at
19 as well.

20 So thank you.

21 SENATOR CEDILLO: Like SEIU, I want to attach
22 myself to the comments of Senator Ashburn.

23 I share the same concerns on the licensing and
24 certification. Again, it's two-fold. I think it's one,
25 staffing and capacity, but it's also, I think, a systems problem
26 in terms of how we go about that, what presumptions we have, how
27 we streamline that, how we avoid redundancies, how we truly
28 evaluate the application process to get us the type of results.

1 Due diligence, but also with great, great efficiency.

2 I would appreciate some report on that,
3 benchmarks in terms of how we move forward.

4 MS. BOYNTON: Good.

5 SENATOR CEDILLO: I'm also concerned with respect
6 to the fact that we made a commitment to bring on more
7 personnel, that we had an agreement with how we would do that in
8 terms of a transition incrementally towards a fee system.

9 Though I don't necessarily favor that, since that
10 is an agreement, I think it's an agreement that should be
11 honored. I'm concerned that the current proposal seems to
12 disregard the agreement we made last year.

13 MS. BOYNTON: We certainly understand the
14 concerns that people have around the proposal in the budget to
15 shift, to accelerate the timeline for the transition to the new
16 fees.

17 As you all know, we are in tough budget times.
18 We were looking for strategies that would be consistent with the
19 spirit and intent. That is, we intended to move to these fees,
20 but would allow us to accrue some savings in the budget year,
21 which will help us in the current budget situation.

22 So, we look forward to discussing that proposal
23 with you as we move forward.

24 SENATOR CEDILLO: Good, because I think there's
25 been a breach of the spirit, the intent of the agreement, but we
26 have the budget process.

27 I want to echo comments made by Senator Padilla,
28 both on the in-home support service, but a general comment with

1 respect our capacity.

2 And I applaud the Governor's initiative. And I
3 applaud him in his efforts to be inclusive of all children,
4 including undocumented children. He has the fullest of my
5 support on that.

6 On a separate but interrelated matter is this
7 whole question of our capacity to do that, and that's why it's
8 key with respect to the infrastructure that exists with
9 community clinics, the infrastructure that is granted us through
10 the in-home support service program. Because in essence what we
11 do is, we capture infrastructure through people's homes and send
12 workers into the existing infrastructure.

13 And so, I think those are really well spent
14 dollars. I think we have great efficiencies, and that if we
15 don't support those, whether it through agreements we make with
16 them, and that infrastructure those people who administer that
17 feel that there's not full faith from the state, or in the area
18 of IHHS, that these are really cost effective investments, and
19 that every hour that we can provide services in an IHHS
20 environment, as opposed to an emergency room, or a long-term
21 care, is really dollars saved and dollars well invested for the
22 state.

23 So, I really want to emphasize that this year we
24 will be looking very thoughtfully at the infrastructure, and
25 what the benefits are of that, and would echo the concerns of my
26 colleague that those are important investments. There were
27 large efforts.

28 I recognize the growth of the program, but the

1 growth of the program, we must design and prepare ourselves for
2 that growth, given the demographics, and the aging.

3 The Governor has, as an athlete, great insight to
4 how we can make all efforts to be healthy, but as we know,
5 things happen.

6 But nonetheless, we do know that we do have an
7 aging population.

8 MS. BOYNTON: Yes, we do.

9 SENATOR CEDILLO: And we must construct
10 strategies that recognize that.

11 MS. BOYNTON: To build that capacity, absolutely.

12 SENATOR CEDILLO: And that's not a burden that
13 should be weighed upon, or weighed against our responsibility to
14 provide living wages, appropriate wages for hard work.

15 MS. BOYNTON: We fully agree that providing
16 services within people's homes in the least restrictive
17 environment is an extremely important avenue for us to be able
18 to continue to expand. And we look forward to talking with you
19 about ways to allow the IHHS program to grow.

20 SENATOR ASHBURN: Mr. Chairman, one of the things
21 that I like about you is that you come from the private sector,
22 and that you were in the advice-giving business of reviewing
23 governmental systems and making recommendations for making them
24 better.

25 I was not specific when we were talking about
26 licensure and the reviews, but OSHPD is in your domain?

27 MS. BOYNTON: Yes, uh-huh.

28 SENATOR ASHBURN: Is there anyone in this room

1 who has not heard from a hospital, a clinic, or any medical
2 facility the nightmare of trying to get permits and plan
3 approvals through OSHPD.

4 I mean, so this thing is out of control. And if
5 I get to vote now on the person who has direct responsibility
6 for it, you've got to do something about it. It's an
7 incoherent, nightmarish, never-ending maze of regulations and
8 reviews that is extraordinarily expensive and very time
9 consuming.

10 And frankly, the public is denied better medical
11 care because of it, and that's unacceptable.

12 And so, in addition to the things that I
13 requested earlier, I think there ought to be an emergency task
14 force convened on that agency, and figure out what it does and
15 what it's required to do, and how its systems can be changed so
16 that it isn't what it is.

17 MS. BOYNTON: OSHPD has -- has been going through
18 an effort to evaluate areas where they can improve, but I do not
19 have specifics on that for you today. I will get them to you.

20 SENATOR ASHBURN: Well, if OSHPD's going to
21 review itself, I'm not real enthusiastic about that.

22 CHAIRMAN PERATA: I second that.

23 SENATOR ASHBURN: But if you call hospital
24 administrators, and hospital architects, and hospital engineers
25 and surveyors, and people who have specialized in health
26 facilities, they will tell you exactly what's wrong.

27 MS. BOYNTON: We will.

28 SENATOR ASHBURN: And it won't take one of these

1 four-year studies, like another one of our departments wanted to
2 suggest to us.

3 MS. BOYNTON: I will look into that and get back
4 to you.

5 SENATOR ASHBURN: I think it's a matter of
6 tremendous urgency.

7 MS. BOYNTON: All right.

8 SENATOR ASHBURN: Thank you.

9 CHAIRMAN PERATA: I'd put an iron vault to it, if
10 I had my way.

11 It was apparently set up to protect us from
12 earthquakes, but it has run amok.

13 SENATOR PADILLA: One more question I forgot to
14 ask you earlier in area of Cal Works, and the Governor's
15 proposal of children-only grants would be discontinued after
16 five years for children whose parents don't meet the work
17 requirement.

18 MS. BOYNTON: Yes, for parents who are not
19 participating in it, who are not working, yes.

20 SENATOR PADILLA: So, any comments as to what we
21 would anticipate happening to those children when those parents
22 are cut off?

23 MS. BOYNTON: We think five years on the system
24 to begin to find employment, and if they are partly -- if they
25 are employed, we have safety net benefits that will allow them
26 to continue.

27 Those who, after five years, do not have -- have
28 not been able to secure work will be cut off from the program.

1 Research shows us in other states that where you
2 have definitive ends, where you have sanctions that will result
3 in termination, you get -- you actually do get better
4 outcomes.

5 What we are encouraging is that parents take the
6 responsibility to become gainfully employed, and we will assist
7 them in that process. It's a two-way street. We need them to
8 help us as well as they need to participate in it.

9 SENATOR PADILLA: I certainly think that would be
10 the best case scenario. The worst case scenario, and the
11 concern from providers and people in my district, is actually
12 making the situation worse: uptake in child neglect issues,
13 sometimes even abuse issues by a parent. So, it just seems
14 like we're punishing the children for the mistake of their
15 parents.

16 MS. BOYNTON: We -- the Governor's proposal
17 aligns the child-only benefits so that they are consistent
18 across the child spectrum.

19 We look forward to talking with the counties
20 about their concerns about any implementation issues they might
21 have, and coming to a successful resolution for how those things
22 will move forward.

23 We have not yet had the opportunity to engage in
24 detailed discussions with them about concerns they may have,
25 whether or not there is any evidence that this would result in
26 additional -- in upticks in any way of abuse, or anything
27 relative to the children. Obviously, we would take those very
28 seriously. So, we will begin those discussions with the

1 counties.

2 SENATOR PADILLA: And if you do hear the concerns
3 from the counties, would you be willing, or do you plan to
4 revisit or reverse this policy shift?

5 MS. BOYNTON: Certainly. This is part of the
6 budget proposal, and we will -- we always take what the counties
7 have to say seriously, and we do make provisions to our
8 approaches based on our discussions with our partners in the
9 best way to implement things.

10 SENATOR PADILLA: Thank you.

11 SENATOR CEDILLO: Do you have observations from
12 other states? Other best practices, other best experiences?
13 Anybody else who has made these shifts?

14 MS. BOYNTON: Relative to sanctions, yes. I do
15 not have those statistics off the top of my head, but I can get
16 those for you.

17 We have information about what the implications
18 are from -- the success rates that other states are showing,
19 whether they're providing graduating sanctions, the full family
20 sanctions, and what happens to people once they leave work.

21 We'd be happy to share that with you.

22 SENATOR CEDILLO: I appreciate that.

23 I would just restate what I feel very strongly
24 about. It seems something fundamentally wrong about a policy
25 that's kind of premised, and the net result is that there is a
26 sanction on children for acts of their parents. It just seems
27 like some type of ethical challenge there for us that I find
28 discomfoting.

1 SENATOR DUTTON: Can I comment?

2 CHAIRMAN PERATA: That's fine.

3 SENATOR DUTTON: I would make one comment.

4 Look, I don't want to be flip.

5 I think what part of the concern is, there was an
6 article that came out in the L.A. Times, January 6th, regarding
7 fraud within county programs and services. And I think that's
8 really what we're going after here, is we want to make sure
9 there's greater accountability.

10 I think all of us are concerned with a lot of
11 these programs. We want to make sure the children are truly
12 getting the help.

13 But where there's abuse, there's different types
14 of abuse, and where we have irresponsible parents that are not
15 taking the resources that we're providing and actually helping
16 to care for those children, those children aren't getting the
17 help anyway.

18 So, we've got to figure out -- what I want to
19 make sure we're doing, though, is that we do have programs in
20 place that, if we're going to end up cutting the support away
21 from the abusive parents who are not doing the job, that we
22 actually have an alternative so the kids don't suffer as a
23 result of our attempt to try to eliminate some of the waste and
24 fraud that's taking place.

25 MS. BOYNTON: And I agree with the need to look
26 at what the impacts of that are.

27 The other item -- and I know you all know, I
28 would just remind you -- is the shift that the Governor is

1 proposing is in reaction to the Deficit Reduction Act, which
2 changed the way that we do our calculations for work
3 participation rates.

4 If we do not find a way to increase work
5 participation, we will lose hundreds of millions of dollars.
6 And that's -- that's our focus. That's what we need to do, is
7 understand how does the system need to be changed so that our
8 work participation rate goes up, and we do not lose that money,
9 because then all of the children, everyone suffers once we -- if
10 we lose those hundreds of millions that are truly now at risk.

11 And this happened after last year's discussions
12 on changes to Cal Works, which are all very positive. And when
13 we started to put the budget together this year, which is what
14 necessitated the need to look at how to increase those work
15 participation rates.

16 So, that's really where we want to focus our
17 discussion, is how do we bring the rates up so that we're not
18 putting money at risk, and then, therefore, able to continue the
19 program, and still encouraging parental responsibility.

20 CHAIRMAN PERATA: Do you have family here?

21 MS. BOYNTON: I do. I have -- this is my
22 16-year-old, Alec, the one with all the hair.

23 CHAIRMAN PERATA: I had hair like that once.
24 Beware.

25 [Laughter.]

26 MS. BOYNTON: This is his brother Bryce. Bryce
27 is 18. He doesn't have any hair. They average out.

28 And right behind them in the green is my mother,

1 Jackie Boynton, and my father, Bob Boynton.

2 CHAIRMAN PERATA: Welcome to all of you.

3 MS. BOYNTON: My husband's busy elsewhere.

4 CHAIRMAN PERATA: I was always wondering what
5 somebody with a philosophy degree would do, and congratulations.

6 MS. BOYNTON: There you go. Thank you.

7 CHAIRMAN PERATA: What I'm curious to know is, I
8 saw you went Lutheran, and then Catholic, but you stayed
9 Lutheran. The experience wasn't --

10 MS. BOYNTON: Stayed Lutheran, yeah. Well,
11 perhaps if I had chosen to go a Catholic school that wasn't in
12 South Bend, Indiana, you know, where they get 100 inches of snow
13 a year, it would have been different.

14 CHAIRMAN PERATA: It had nothing to do with the
15 losing seasons, though, did it?

16 MS. BOYNTON: We were winning then. When I was
17 at Notre Dame, they had good seasons then.

18 CHAIRMAN PERATA: Oh, yeah. You look much
19 younger.

20 [Laughter.]

21 MS. BOYNTON: Thank you.

22 CHAIRMAN PERATA: Anyone here who would like to
23 come and support the nomination?

24 Anybody in opposition?

25 MS. BOYNTON: I told the children they couldn't
26 talk. They did ask.

27 [Laughter.]

28 CHAIRMAN PERATA: I know. They were rising out

1 of their seats. It's bad enough just having to be here.

2 With that, we have a motion to approve. Please
3 call the roll.

4 SECRETARY WEBB: Cedillo.

5 SENATOR CEDILLO: Aye.

6 SECRETARY WEBB: Cedillo Aye. Dutton.

7 SENATOR DUTTON: Aye.

8 SECRETARY WEBB: Dutton Aye. Padilla.

9 SENATOR PADILLA: Aye.

10 SECRETARY WEBB: Padilla Aye. Ashburn.

11 SENATOR ASHBURN: Aye.

12 SECRETARY WEBB: Ashburn Aye. Perata.

13 CHAIRMAN PERATA: Aye.

14 SECRETARY WEBB: Perata Aye. Five to zero.

15 CHAIRMAN PERATA: Thank you. Congratulations.

16 MS. BOYNTON: Thank you.

17 [Thereupon the Committee

18 acted on other agenda items.]

19 CHAIRMAN PERATA: Item Five, we had asked, or I
20 had asked, Ms. Marin to come back today. But we had subsequent,
21 between that time that I asked her and today, we've had
22 subsequent contact on the Private Postsecondary and Vocational
23 Education. So, I have an update that I wanted to just read into
24 the record.

25 We discussed the vocational education at last
26 week's hearing. Through a series of meetings subsequently, we
27 have learned that the administration is seeking a two-prong
28 solution to the problem.

1 They will be sponsoring one bill to deal with the
2 short-term problem to get us through December. The
3 administration is meeting with Legislative Counsel to see how we
4 may achieve this in a manner that is Constitutional.

5 The administration is also now developing a
6 contingency plan should that effort fail, and the state
7 oversight fail to continue after June 30th.

8 Additionally, the administration has agreed to
9 join the Legislature in working jointly with all stakeholders to
10 develop a consensus solution to deal with the reforms needed in
11 the longer term. I am confident that this will be a very
12 challenging endeavor, but at the end will be successful.

13 And with that new information, I believe we can
14 consider this issue dispensed with, and just remind ourselves
15 that the sunset is on the first of July.

16 So with that, she will be moving to the Floor for
17 confirmation.

18 [Thereupon this portion of the
19 Senate Rules Committee hearing
20 was terminated at approximately
21 2:55 P.M.]

22 --ooOoo--
23
24
25
26
27
28

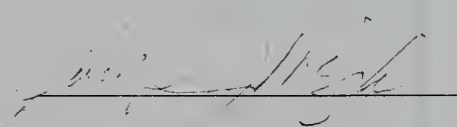
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of January, 2007.


EVELYN J. MIZAK
Shorthand Reporter

APPENDIX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



APPOINTEE

THERESE MARIE DELGADILLO

DIRECTOR, DEPARTMENT OF DEVELOPMENTAL SERVICES

APPOINTEE BACKGROUND

Appointed by Governor Schwarzenegger, effective September 1, 2006

Department of Developmental Services

Chief Deputy Director and Acting Interim Director	2006
Health and Human Services Agency, Deputy Secretary	2004—2006
Department of Health Services,	
Deputy Director of Health and Bioterrorism	2000—2004
Youth and Adult Correctional Agency,	
Deputy Secretary of Legislation	1997—2000
United States Senate, Legislative and Policy Director	1991—1997
California State Senator John Seymour,	
Chief Legislative Consultant	1986—1991
Office of Criminal Justice Planning and Research	
Chief, Legislative Division	1982—1986
California Youth Authority, Correctional Police Officer	1979—1982
Master of Social Work, California State University, Sacramento	
Bachelor of Arts, Social Science/Administration of Justice,	
California State University, Stanislaus	
Associate of Arts, General Education, Walla Walla Community College	

DISCUSSION OF ISSUES AND POTENTIAL QUESTIONS

1. POSITION BACKGROUND	2
2. QUALITY MANAGEMENT FOR COMMUNITY SERVICES	3
3. QUALITY MANAGEMENT FOR DEVELOPMENTAL CENTERS.....	4
4. CLOSURE OF AGNEWS DEVELOPMENTAL CENTER	6
5. CALIFORNIA DEVELOPMENTAL DISABILITIES INFORMATION SYSTEM (CADDIS)	7
6. PORTERVILLE DEVELOPMENTAL CENTER	8
7. AUTISM SPECTRUM DISORDERS.....	9

POSITION BACKGROUND

The California Department of Developmental Services (DDS) oversees the coordination and provision of services to individuals with developmental disabilities and their families pursuant to the state Lanterman Developmental Disabilities Services Act and related laws. A developmental disability is a disability that originates before a person reaches age 18, continues or is expected to continue indefinitely, and constitutes a substantial impairment in three or more areas of major life activity. Developmental disabilities include mental retardation, cerebral palsy, epilepsy, autism, and related conditions.

DDS carries out its responsibilities through a network of 21 community-based, nonprofit corporations called regional centers, five developmental centers, and two smaller community facilities. DDS has oversight over a \$4 billion budget, which includes \$3.2 billion for community-based services coordinated by regional centers, \$703 million for developmental centers (including the two community facilities), and \$38 million for DDS headquarters operations. DDS has approximately 8,120 authorized positions, reflecting almost 400 positions for headquarters operations and about 7,720 positions for the developmental centers.

REGIONAL CENTERS

The 21 regional centers with which DDS contracts provide or coordinate community-based services for individuals with developmental disabilities. Services include diagnosis, case management, residential services, vocational services, medical and behavioral therapies, and transportation, among others. Regional centers use a planning process called an individual program plan to identify an individual's goals and the services needed to reach those goals. All services listed in the individual's plan are provided either through businesses approved by the regional center, directly by the regional center, or from other sources such as health insurance coverage, public agencies, and supports from family and friends. Regional centers serve over 210,000 persons.

DEVELOPMENTAL CENTERS

The five developmental centers operated by DDS provide 24-hour care, supervision, specialized training, and other services in a structured health

facility setting to individuals whose needs cannot be readily met through available services in the community. These individuals have been referred by regional centers or committed by the courts. Most individuals admitted in recent years have been persons committed by the courts because their behavior in the community led to involvement with the criminal justice system. The primary mission of the developmental centers is to provide services that increase residents' independence, functioning skills, and ability to live in community settings.

The developmental centers include Agnews Developmental Center in Santa Clara County, Fairview Developmental Center in Orange County, Lanterman Developmental Center in Los Angeles County, Porterville Developmental Center in Tulare County, and Sonoma Developmental Center in Sonoma County. DDS also operates two smaller community facilities: Sierra Vista in Sutter County and Canyon Springs in Riverside County. About 2,900 persons are served in the seven facilities.

Background

- 1. What do you hope to accomplish as director of the Department of Developmental Services? How will you measure your success in achieving your objectives?**
- 2. How does DDS monitor services provided through regional centers and developmental centers to ensure Californians with developmental disabilities are receiving quality services?**
- 3. Based on data collected for the regional center performance contracts, are regional centers meeting the desired statewide public policy outcomes?**

* * * * *

QUALITY MANAGEMENT FOR COMMUNITY SERVICES

The Lanterman Act, adopted by the state about 30 years ago, establishes that, to the extent possible, individuals with developmental disabilities have a right

to receive services in the least restrictive environment and in natural community settings. An individual's right to live in the community, when appropriate, is also at the core of the 1999 U.S. Supreme Court decision in *Olmstead v. L.C.* The development of resources and expertise among community-based service providers has enabled many individuals, including those with special health care needs, to remain living in their homes and communities. The community services system coordinated through the regional centers has grown significantly in terms of the number of persons served and the cost of providing services. Between 1990-91 and 2001-02, total expenditures for the community services program grew on average nearly 13 percent annually. The average annual rate of growth slowed to about 8 percent from 2002-03 through 2005-06 and then increased to almost 16 percent in 2006-07. In recent years the state adopted various cost containment measures, including freezes on rates paid to service providers, to slow the growth in costs.

Quality Management for Community Services

- 1. Beyond caseload growth, what other factors are driving the growth in services purchased by regional centers?**
- 2. How will the need for services purchased by regional centers change or increase in the future?**
- 3. Are there ways that the state can effectively manage the growth in service costs while promoting high-quality services for all individuals and complying with the Lanterman Act and the Olmstead decision?**

* * * * *

QUALITY MANAGEMENT FOR DEVELOPMENTAL CENTERS

While more individuals with developmental disabilities remain living in the community, there has been a steady decline in the population residing at the developmental centers. Prior to 1970, the total population of the

developmental centers was over 13,000. The developmental centers now serve less than 3,000 persons. Two developmental centers closed during the 1990s; a third facility, Agnews Developmental Center, is slated to close by July 2008.

Developmental centers employ both clinical staff, such as physicians, psychiatrists, nurses, and pharmacists, and nonclinical staff that provide administrative and support services. Many of the staff classifications that are used at the developmental centers are also used at the state mental hospitals and state prisons. In some cases developmental centers are located in relatively close proximity to these other state facilities, enabling staff to transition across jobs with DDS, the Department of Corrections and Rehabilitation, and the Department of Mental Health. Recent federal court mandates to address clinical staffing shortages at state prisons by increasing compensation could make it harder for DDS to maintain staff at the developmental centers.

DDS reports already losing 44 clinical staff, such as nurses, physicians, and pharmacists, to other state departments and another 107 clinical staff have applications in process for positions with other departments.

Quality Management for Developmental Centers

- 1. What are the main challenges facing developmental centers as the population of the centers continues to decline?**
- 2. What strategies are being explored to address the clinical staffing needs of the developmental centers as large numbers of nurses, physicians, and pharmacists leave the developmental centers for positions with other state departments?**

* * * * *

CLOSURE OF AGNEWS DEVELOPMENTAL CENTER

The administration's plan to close Agnews Developmental Center in June 2008 will necessitate the transition of up to 300 persons living at Agnews into community-based living arrangements in the Bay Area. The Bay Area Housing Plan, which was approved by DDS in September 2005, is the plan for development of community-based housing for these individuals pursuant to AB 2100 (Steinberg), Chapter 831, Statutes of 2004. The Bay Area Housing Plan allows the three Bay Area regional centers (San Andreas Regional Center, the Regional Center of the East Bay, and the Golden Gate Regional Center) to determine the types, amounts, and locations of housing to be purchased and developed.

Closure of Agnews Developmental Center

- 1. What progress is being made in the development of housing and expansion of private service providers for persons transitioning from Agnews Developmental Center into the community?**
- 2. How have DDS and the regional centers dealt with any community opposition to the development of housing for persons leaving Agnews Developmental Center?**
- 3. How will DDS ensure that Agnews Developmental Center maintains the appropriate level of staffing throughout the closure of the facility?**

* * * * *

**CALIFORNIA DEVELOPMENTAL DISABILITIES INFORMATION SYSTEM
(CADDIS)**

In December 2006 DDS announced the cancellation of the California Developmental Disabilities Information System (CADDIS) project after spending more than \$14 million on the project since 2000. The primary reason cited for project cancellation is that the state was not able to obtain from the project vendor the rights to the computer system code under terms acceptable to the state. Rights to the system code would allow the state to change the software as needed without an obligation to contract with the project vendor for changes.

CADDIS was intended to be a user-friendly, integrated data system for use by regional centers. According to DDS, the goals of the statewide technology project were to reduce data entry, redundancy, and inconsistency; improve regional center planning and budgeting for services; track individual and other outcomes information; fulfill reporting requirements to increase federal funding; and enable compliance with the federal Medicaid program.

**California Developmental Disabilities Information System
(CADDIS)**

1. What alternatives are being explored to accomplish the goals that CADDIS was intended to achieve? What are potential long-term options and steps for the interim?
2. Will the state be able to use any of the product generated from the CADDIS project towards development of an alternative system or systems?

* * * * *

PORTERVILLE DEVELOPMENTAL CENTER

Porterville Developmental Center is unique among the developmental centers because it operates both a general treatment program for aging and fragile persons with intensive medical needs and a separate secure treatment program for the developmentally disabled offender population. The secure treatment program serves about 300 individuals who have highly antisocial or violent behaviors, including persons who are court ordered into the facility due to serious, often multiple, criminal offenses. According to DDS, this program is the only one of its kind in the state, and for that reason it is experiencing a dramatic increase in persons judicially committed to the program. There is also a waiting list for admission to the program. Because of this demand, the state initiated a 96-bed expansion of the facility.

Porterville Developmental Center

1. What is the status of the 96-bed expansion at Porterville Developmental Center?
2. Will this expansion accommodate all individuals who are currently on the waiting list for placement at the facility as well as provide capacity for future placement of persons who are judicially committed?

* * * * *

AUTISM SPECTRUM DISORDERS

According to DDS, the department serves nearly 32,000 persons diagnosed with autism spectrum disorders (ASD), and more than 80 percent of these individuals are between the ages of three and 21. The aging of this population is anticipated to drive an increased demand for residential, vocational, and other services. At the same time, another 3,000 persons with ASD are added to the regional center caseload each year. The cost of providing services to persons with ASD is anticipated to quadruple in 10 years.

Individuals with ASD may also receive services through other systems, such as special education services funded through the schools and medically necessary services provided through public and private health insurance programs. Regional centers are required to pursue generic resources provided by other public agencies and health insurance coverage when they are available.

Autism Spectrum Disorders

- 1. How does DDS monitor regional centers to ensure they are collaborating effectively with schools regarding the services provided to individuals with autism?**
- 2. What steps should the state take now to prepare for the aging of the autism population served by DDS?**

* * * * *

Prepared by Jody Martin

The firm's production function is given by $Q = K^{\alpha}L^{\beta}$, where Q is output, K is capital, and L is labor. The firm's cost function is given by $C = rK + wL$, where C is total cost, r is the rental rate of capital, and w is the wage rate. The firm's profit function is given by $\pi = Q - C$, where π is profit. The firm's profit-maximizing output is given by Q^* , where Q^* is the output level that maximizes profit. The firm's profit-maximizing input levels are given by K^* and L^* , where K^* and L^* are the input levels that maximize profit. The firm's profit-maximizing cost is given by C^* , where C^* is the cost level that maximizes profit.

Input	Output	Cost	Profit
1	1	1	0
2	4	2	2
3	9	3	6
4	16	4	12
5	25	5	20
6	36	6	30
7	49	7	42
8	64	8	56
9	81	9	72
10	100	10	90

DEPARTMENT OF DEVELOPMENTAL SERVICES

500 NINTH STREET, Room 240, MS 2-13
SACRAMENTO, CA 95814
DD 654-2054 (For the Hearing Impaired)
(16) 654-1897



December 20, 2006

The Honorable Don Perata
Chairman, Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814

Attention: Nettie Sabelhaus
Rules Committee Appointments Director

Dear Chairman Perata:

Thank you for the opportunity to address the Senate Rules Committee on January 24, 2007, regarding my confirmation as Director of the Department of Developmental Services.

Enclosed are responses to the questions in your letter of November 30, 2006. I am available at your convenience to provide any additional information you may need prior to the hearing.

Again, thank you for your favorable consideration.

Sincerely,

A handwritten signature in cursive script, reading "Terri Delgadillo".

TERRI DELGADILLO
Director

Enclosures
Form 700

Senate Rules Committee

DEC 20 2006

Appointments

"Building Partnerships, Supporting Choices"

**1. What do you hope to accomplish during your tenure as director of DDS?
How will you accomplish these goals?**

As Director of the Department of Developmental Services (DDS), I have several programmatic and administrative priorities.

First, I will work with community stakeholders to ensure the services provided by the system meet the needs of consumers and their families. During the 40 years since passage of the Lanterman Developmental Disabilities Services Act (Lanterman Act), the characteristics of the system and the people we serve have changed dramatically. At that time, a large portion of the consumer population resided in state-operated facilities. Few were fully integrated into the public school system, community living, or the workforce. Only a small number of consumers were diagnosed with autism and referrals from the criminal justice system were rare.

Today, we serve over 213,000 consumers and fewer than 2,900 live in state-operated developmental centers. Now, the system is focused on integrated community living, school attendance, employment and consumer empowerment. Over 17 percent of the consumer population has been diagnosed with an autistic spectrum disorder. A significant number of consumers have been dually diagnosed with mental health needs and the criminal justice referrals have exceeded the available bed space within the developmental centers.

Recognizing these changes, I believe it is imperative that we evaluate our current service delivery system and where necessary modernize it to meet the changing needs of the people we serve.

For example, with over 98 percent of the consumers living in the community, the system is struggling to meet the growing demand for housing. The needs of the system have outpaced the traditional approach of contracting with providers for housing and support services under one bundled state rate. With the skyrocketing housing costs and frozen state rates, many providers are unable to open new facilities and some are closing existing homes, requiring consumers to be relocated from their homes.

I intend to bring focused attention to the development of additional housing options, especially those that acquire housing that will remain in the system in perpetuity. By investing in the housing stock once, the State will prevent unnecessary consumer relocations associated with changing service providers. This approach is also fiscally prudent and will help ensure resources are available to address the increasing service needs of consumers. Efforts are already underway to develop housing that will remain in the system in connection with the closure of the Agnews Developmental Center.

Consumer employment needs are also evolving. Many consumers are leaving high school where they have been working in a job that ends with graduation. The traditional sheltered workshop and supported employment programs are not challenging enough for some of these consumers and do not meet their expectations. Innovative programs,

Senate Rules Committee

such as those developing micro enterprises, are needed to fulfill the employment goals of a significant portion of the consumer population. DDS is working closely with the State Council on Developmental Disabilities to implement Senate Bill (SB) 1270 (Chapter 397, Statutes of 2006, Chesbro), legislation to assess consumer needs and increase community options. In addition, DDS is providing seed money to regional centers to initiate innovative day and employment programs.

Also, our system needs to further develop programs and services to assist individuals with autism. DDS is implementing the Autistic Spectrum Disorders Initiative to establish best practice guidelines for treatment and intervention programs. This is a collaborative effort with a broad array of stakeholder groups and experts in autism.

Second, one of my top priorities is to improve the working relationships throughout the system. I believe the success of our efforts, especially during these fiscally challenging times, will be predicated on our ability to work collaboratively and to communicate effectively. I come to this job with a strong personal passion for serving individuals with developmental disabilities and believe all stakeholders share this motivation. Key to improving teamwork is an appreciation of the purpose and value that each of us brings to the team. I have spent the first 10 months at DDS personally meeting with our colleagues throughout the system. I have visited all of the state-operated facilities, including the two community programs, and over half of the 21 regional centers. I have met with consumers, families, advocates, staff and providers. Most importantly, I have found everyone supportive and excited to improve our collaboration. For example, recently the Department; the Association of Regional Center Agencies (ARCA), including six regional center directors; and the California Association of State Hospital Parent Councils for the Retarded (CASHPCR) (statewide association of parents of developmental center residents) met for the first time ever to discuss ways to improve communication.

A key component of our relationship building is consumer empowerment. We all want consumers to have excellent services and supports and that can only be accomplished if we listen to and engage consumers and their families throughout the process. Recently, consumers have been instrumental in the development of the draft regulations for the Self-Directed Services Program. I am firmly committed to ensuring consumers and families always have a seat at the decision-making table.

Third, as Director, one of my biggest challenges will be managing the historic migration of staff from DDS and throughout the entire system. At the Department, 80 percent of top management and 70 percent of managers generally are of retirement age. While DDS is fortunate to have many dedicated employees work past retirement, their ability to do so is often time-limited. Please see my responses to your questions regarding the DDS workforce (questions 7, 8, and 9) for details on our efforts to address this enormous challenge.

2. **Please provide a current snapshot of the population served through the regional centers, developmental centers, and community facilities. Please include the number of individuals served and key population demographics and characteristics such as age, ethnicity, gender, type of developmental disability, and type of residential placement for persons living in the community.**

As mentioned above, DDS serves over 213,000 consumers. Approximately 2,900 reside in five developmental centers and two state-operated community facilities. Over 210,000 consumers are served in the community by 21 nonprofit regional centers under contract with DDS. Please see Enclosures 1 and 2 for the demographic and characteristic breakdowns of the consumer population as of September 2006.

3. **What primary challenges confront DDS in the operation of the developmental centers as the population residing at the centers continues to decline? What actions are you taking to address those challenges?**

The Department's primary challenges in the developmental centers relate to: a) the changing nature of the population, b) the aging infrastructure and facilities, and c) the increasing shortage of health care professionals.

- A. Changing Population. As the population at the developmental centers declines, our remaining population is shifting to two primary groups – individuals who have resided in the developmental centers for many years who are aging and requiring increasingly complex medical care; and young adult males with predominantly mild or moderate disabilities who are admitted through the judicial system. Individuals in this group have severely challenging behaviors and criminal offenses requiring treatment services in a secure setting. Frequently, this latter group has a secondary mental health diagnosis. Currently, 49 percent of our developmental center population has a psychiatric diagnosis.

More than one third of the developmental center population is over the age of 52, an 8 percent increase, since 2002. In recent years, several individuals at Sonoma Developmental Center have lived past the age of 100. With an older population, we are seeing the emergence of age-related and lifestyle conditions that are similar to those found in the general population, including diabetes, cancer, cardiac problems, strokes, hip fractures, arthritis, osteoporosis, Alzheimers disease, Parkinsons, and dementia. Our service focus is shifting accordingly. We are training staff on issues of aging and end of life care; providing more restorative nursing, mobility engineering and adaptive equipment; moving from active training programs to leisure activities; converting residences from intermediate care units to skilled nursing units; and providing specialized programs such as hospice services. The future will challenge us to invest in more sophisticated medical and diagnostic

equipment. In addition, we will need to secure medical specialists such as oncologists, cardiologists, gerontologists and physical medicine specialists, to provide complex medical and nursing care to an increasingly fragile population.

Changes in criminal laws, and the lack of community or other placement options, have resulted in a significant increase in referrals from the courts to the developmental center system. We have only one secure facility, Porterville Developmental Center, and it has reached capacity. With 300 individuals already in Porterville's Secure Treatment Program and continuing court referrals, last month we began construction of 96 new beds and related program facilities, to expand our treatment capacity. Construction will be completed in the summer of 2008. This population requires specialized behavioral and mental health treatment services, which are often necessary before the consumers can return to the courts and participate in their judicial process. In addition, community placements will be needed when these consumers leave the developmental center.

- B. Infrastructure. The newest of the developmental centers, Fairview, opened in 1959 and is almost 50 years old. The oldest, Sonoma and Agnews were constructed in the late 1800s and are more than 100 years old. As would be expected, the developmental centers' buildings and infrastructure are aging and becoming more costly to maintain. The basic infrastructure needs ongoing repairs, updating or replacement. Breakdowns are occurring frequently and it is increasingly more difficult to find parts for the old equipment or technicians able to service these systems. With the ongoing structural budget deficit, we have been scheduling capital outlay upgrades or renovations where critically necessary to protect consumers' and employees' health and safety, correct fire life safety deficiencies, and to maintain licensing and certification.
- C. Workforce. The third significant challenge is maintaining an adequate workforce, trained, competent and sufficiently flexible to adapt to the needs of the changing consumer population. This is further addressed in response to questions 7, 8, and 9.

- 4. **Please identify the major types of community-based services that are coordinated or purchased by regional centers. How will the need for these services change or increase in the future? What steps can DDS and the regional centers take to help ensure an appropriate supply of quality service providers in the community?**

As previously mentioned, DDS contracts with 21 private, nonprofit regional centers to provide services and supports to over 210,000 consumers living in the community. The major types of services and supports coordinated or purchased by the regional centers are:

- Residential services
- Day and infant programs
- Transportation
- Respite
- Habilitation (employment programs)
- Behavioral or specialized therapies
- Support services (such as supported living)
- Prevention

Many of these service delivery models were developed when the system had a much less diverse population. DDS is working closely with the State Council on Developmental Disabilities, regional centers, service providers, consumers, families, and stakeholders to address the changing consumer needs and implementation of innovative services. Some of the key factors impacting service needs are:

- A growing population of individuals with autism, many of whom require specialized services.
- The increase of consumers with a dual diagnoses (mental health, substance abuse), or those individuals involved with the criminal justice system, many of whom have special behavioral needs.
- The national and California focus on community integration and providing services in the least restrictive environment.
- The emphasis on consumer empowerment, self-advocacy, and self-directed services.
- The need for day and work programs tailored toward a much more independent consumer, many of whom have graduated from high school and are looking for a challenging work environment.
- A large number of aging parents who will no longer be able to care for their loved ones at home, thereby increasing the need for community residential services.
- The demand for cost-effective housing, with the real estate market priced out of reach for many consumers and families.
- The critical need for quality medical and dental services, including preventive care and specialized services for the aging population or those with enduring medical needs.

DDS is actively involved with our partners in numerous efforts to assess changing consumer needs and the availability of appropriate services and supports. Examples of current efforts include:

A. The Innovative Closure of Agnews Developmental Center

The closure of Agnews involves several new and innovative efforts to allow most of the residents to live in the community. This directly contrasts with prior closures focused on relocating the residents to other developmental centers. The closure plan involves:

- An innovative public-private partnership to acquire housing that will be available in perpetuity for persons with developmental disabilities. This will provide a cost-effective method for ensuring continuity of residential care separate from the purchase of program services.
- The development of a new licensed residential model that builds upon the community care program to provide services for persons with special healthcare needs. This will allow consumers, such as those requiring a feeding tube, to be able to live outside a hospital or nursing home, and in the community.
- The transition of staff, who work with the consumer at the developmental center, to the community programs. This will provide continuity of care and increase the supply of quality service providers.

B. Efforts to Address Special Service Needs of Consumers

- DDS is working with a wide array of stakeholders to develop best practice guidelines for treating individuals with autism. This segment of the consumer population continues to increase and the system needs to identify and develop effective services and supports.
- DDS is working with the Association of Regional Center Agencies (ARCA) to identify resource needs for the challenging and difficult-to-serve consumer population. In addition, DDS and the Department of Mental Health are providing resources to ARCA and the County Mental Health System to coordinate services for dually eligible consumers.
- DDS is working closely with the State Council on Developmental Disabilities to implement new legislation (SB 1270) to assess the changing consumer service needs in the areas of day and work programs. Further, with a \$3 million current year appropriation, DDS is providing funding for regional centers to start up innovative and inclusive programs.

DDS will continue to work closely with our stakeholder community to identify and address service needs.

5. **To what extent has the expenditures growth in the community services program been driven by growth in the number of consumers served, the utilization of services per consumer, and the cost of services? Based on these trends, are there ways that the state can effectively manage the growth in the community services program while promoting high quality services for all consumers?**

For the last five fiscal years, based on paid claims data, 60 percent of the growth in expenditures can be directly tied to the increase in population. The number of consumers receiving services, beyond regional center case management, has grown on average by 7,000 individuals per year. During this time period, the number of services purchased per consumer, per year has remained fairly constant. This data excludes the Habilitation Program, which recently transferred to DDS. During the last two years, the Habilitation Program has seen a slight decrease in consumer participation and a 3.5 percent increase in paid claims.

Further, based on the paid claims database, we have identified some broad trends. For example:

- A higher percentage of the total consumer population is living in the community, with a growing number of consumers choosing supported living arrangements.
- The demand for behavioral services is increasing.
- The use of specialized residential services versus regular community care programs is growing.
- Transportation costs are rising.
- Early Start services are in demand.

DDS, working with Acumen, LLC, is analyzing a plethora of consumer data sources to determine the factors contributing to system growth, such as cost increases, changes in the types of services purchased, and/or changes in caseload characteristics that require higher cost services.

While the outcomes of the Acumen, LLC study will guide future program management decisions, the State has several efforts underway to help manage the growth while maintaining quality consumer services. For example:

A. **Autistic Spectrum Disorders Initiative.**

As previously mentioned, the Department is implementing this initiative to establish best practice guidelines for treatment and intervention programs. DDS has already completed guidelines for diagnosis and assessment. These efforts will improve early diagnosis and intervention which can lead to

improved outcomes and reduced service demands. In addition, the identification of "best practices" will focus resources on more promising programs. (For further details on this initiative, please see responses to questions 16 and 17.)

B. Housing Development.

To the degree housing can be acquired that remains in the system in perpetuity, the cost for community care will decrease significantly while simultaneously benefiting consumers who will not have to be relocated when there are changes in service providers.

C. Regional Resource Development.

With the changing characteristics of the consumer population, there are increasing needs for specialized services. By encouraging development of services regionally versus by each center's catchment area, the system will be able to address consumer needs while minimizing duplication.

D. Service System Collaboration.

The consumers served by DDS and the regional centers are often consumers of other social service, health and educational programs. System wide collaboration will improve consumer services, reduce duplication, maximize federal participation, and avoid unnecessary and costly litigation.

6. What outcome measures, including consumer outcome measures, would indicate that DDS is succeeding in its mission of achieving quality services for Californians with developmental disabilities, including persons residing in developmental centers and persons living in the community?

DDS is committed to establishing a comprehensive system wide process to measure quality services and consumer outcomes. With funding provided in the 2005-06 budget, DDS contracted with the University of California, Davis (UCD) to assist us in enhancing and coordinating a statewide, integrated Quality Management System (QMS) that addresses federal requirements. The revised QMS will shift the focus from monitoring and oversight to producing positive consumer outcomes and managing performance. The system is based on key consumer values, including choice, relationships, health and well-being, life style, and satisfaction and will include:

- Quality indicators, focused on consumer outcome measures for residents of the developmental centers and those living in the community;
- Mechanisms for collecting data directly from consumers, family members, regional centers and services providers;

- Problem identification and development of plans of correction; and
- Continuous use of data to identify trends and measure improvements.

Currently, DDS has numerous processes to collect data and measure effectiveness. Provided below is a list of the most significant monitoring processes used for regional center consumers and residents at the developmental centers.

A. Regional Center Measures

1. **Regional Center Performance Contracts.** Regional center performance contracting is statutorily required. Beginning in 2002, the Department, in collaboration with regional centers, began piloting an outcomes-based performance contract. All 21 regional centers were phased into the pilot, effective January 2006. With input from the community, each regional center develops local goals and objectives. Outcomes-based performance contracts focus on statewide public policy outcomes derived from the Lanterman Act and regional center compliance measures. For example, the Department measures statewide outcomes associated with the development of individual program plans for consumers, family preservation, and compliance with the federal Olmstead decision. Annually, outcome comparison data is produced to track statewide progress.
2. **Biennial Collaborative Home and Community-based Services (HCBS) Waiver Monitoring Reviews.** DDS and the California Department of Health Services conduct onsite Medicaid Waiver monitoring reviews at regional centers every two years. The monitoring includes consumer, provider, family, and regional center staff interviews to assess consumer health and safety, satisfaction and adequacy of service provision. Follow-up reviews are conducted when problems are identified.
3. **Comprehensive Risk Management System.** California has implemented an innovative and comprehensive risk management system designed to assist in decreasing risks to health and safety while honoring consumer choice, community integration and independence. The system enables the State to identify the factors that compromise consumers' health, safety, and/or well-being and implement preventive strategies and interventions to mitigate such risks. This system is statewide and applies to all regional center consumers.
4. **Annual Evaluation of People Moving from the Developmental Center into the Community.** An annual study, first conducted in 1994, was designed to track the quality of community programs and

placements, and measure consumer and family satisfaction. The study population includes all persons moved as a result of the Coffelt court settlement agreement (1993) as well as any persons that subsequently moved from a developmental center.

5. **Life Quality Assessment (LQA).** Implemented in 1996 in response to the Coffelt court settlement agreement, LQA is a tri-annual survey of consumers living away from home. It is designed to assess individual life quality in the areas of choice, relationships, lifestyle, health and well-being, assurance of rights, and satisfaction.
6. **Bay Area Quality Management System Pilot.** This model was developed with a federal grant as part of the Agnews Closure Plan. It is currently being implemented at San Andreas, East Bay and Golden Gate Regional Centers. The system measures provider performance, consumer and family outcomes and satisfaction, maintains a central information system, and establishes a Quality Review Commission made up of stakeholders to review quality data and provide input into system improvements.

B. Developmental Center Measures

Developmental Center Quality Management Program. Each developmental center maintains a Quality Assurance (QA) Office that monitors the facility's service delivery system, ensures development of continuous improvements and establishes thresholds for quality and performance outcomes. The QA Offices provide operational direction necessary to monitor and evaluate the quality and appropriateness of services provided at the facility, identify clinical and service improvements, and monitor intervention results over time to assess the need for revised improvement strategies. Key quality management activities include:

- **Nursing Home Quality Measures—** Data are collected on health, physical functioning, mental status, and general well-being and used to assess consumer needs and develop a unique person-centered care plan.
- **Customer Satisfaction Surveys—** Surveys are designed to assess individual and family satisfaction in the areas of living arrangements, leisure and social activities, paid employment, personal rights, and overall quality of life, in order to ensure a person-centered approach to care and treatment.
- **Risk Management Program—** Staff in the QA office are dedicated to performing risk evaluations and mitigating risks through data collection and analysis, identification of risk factors, preventive measures, organizational response, and staff education.

- **Regulatory Compliance Program**—This function within the QA office is designed to ensure that the facility is providing quality services and operating within the guidelines of federal and state regulatory and licensing standards.
- **Quality Assessment and Performance Indicator Program**—Consumer health indicators are identified and evaluated by nursing staff. The focus is to improve the quality of health care by the use of currently accepted best practice regimens when treating common clinical conditions that affect many consumers.

7. What steps have you taken to examine the current and projected workforce needs at DDS headquarters and the developmental centers? What are the major challenges affecting the department's ability to maintain a skilled workforce?

Since its creation, DDS has been very fortunate to attract staff with a passion to serve individuals with developmental disabilities. A significant number of our employees have spent most, if not all, of their career working in the developmental disabilities system. For the last 30 plus years, these committed professionals provided great stability for DDS. In the years ahead, DDS will face many new staffing challenges, most notably:

- **Significant retirements.** DDS is facing the largest wave of retirements in its history as the baby boom workforce ages and leaves. This issue looms larger at DDS than other state agencies as we have an older workforce. Approximately 35 percent of state employees generally are eligible to retire today, whereas over 50 percent of DDS employees are in this category. (Please see response to question 8 for more information.)
- **Highly competitive labor market.** Demographic data shows a projected labor shortage in the next decade as the number of younger workers entering the labor market is too small to replace all those who are retiring. This labor shortage is most acute for skilled, educated workers, such as those needed by DDS.

DDS uses clinical professionals such as doctors, nurses, pharmacists, clinical dietitians, respiratory and physical therapists, psychologists, social workers, and psychiatric technicians in our developmental centers. We use analytical, computer, and managerial staff in our headquarters. All these positions require specialized education and training. The labor shortage for clinical health care staff has already resulted in serious recruitment and retention issues in our developmental centers. In addition, recent federal court orders have further eroded the ability of DDS to recruit and retain health care staff.

In light of these issues, DDS is revising our workforce plan and implementing a proactive recruitment program.

- **Workforce Plan.** The revised DDS Workforce Plan will include a statistical analysis of our workforce and its skills, a skills gap analysis, and a projection of staffing needs for the next five years. This plan will be updated every two years as our staffing needs evolve.
- **Targeted Recruitment.** A targeted recruitment program for staff with the skills and licenses needed as identified in the DDS Workforce Plan will be implemented.
- **Succession Planning and Workforce Development.** The goal is to build knowledge and competencies among our current work force to ensure readiness to promote into vacancies created by retirements.

DDS also seeks to promote a rewarding working environment where staff feel that they are contributing to an important mission and enjoy the job. Staff is encouraged to visit the regional centers, developmental centers, and consumer service programs. Efforts are underway to employ more consumers into our workforce.

8. **What percentage of headquarters staff and of developmental centers staff, including management staff, are at or near the age of retirement? Please describe any specific plans to recruit and train employees to fill these positions when existing staff retire.**

As previously mentioned, many DDS employees have spent their careers working in the field of developmental disabilities and are now approaching retirement. DDS is challenged to recruit and train new employees and managers. Provided below is a State Personnel Board chart that captures the impact on our agency workforce.

Percentage of DDS Employees Aged 50+ and Eligible to Retire (n = 8,402 Employees)	
CEAs	81%
Managers	71%
Supervisors	54%
Rank and File	48%

Succession planning is a top priority for DDS and the California Health and Human Services Agency. We are actively engaged in outreach, recruitment and training efforts to attract new staff and prepare existing staff for promotion. These efforts include:

A. Management Development

- **The Employee Enhancement and Leadership Program.** This program was developed in partnership with University of California, Davis to build

leadership skills in our journey level professional staff to enable them to promote to positions of greater responsibility. This program is being offered annually.

- **Introduction to Management.** This program, designed for experienced DDS supervisors to be trained in management skills, will begin soon.
- **California Health and Human Services Agency Management Development Academy.** The California Health and Human Services Agency is developing this program designed to prepare Staff Services Manager III's and lower-level CEAs for greater management responsibilities.
- **Executive Leadership Program.** I am a member of the Advisory Board and the Department is participating in this new program, developed by the Department of Personnel Administration, the State and Consumer Services Agency, and the State Chief Information Officer. Managers will receive specialized leadership development and be issued a certificate from Sacramento State University.

B. Outreach and Recruitment of New Employees

- DDS has been an active participant in the CHHSA Succession Planning Workgroup that has undertaken several initiatives including multi-department exams and manager and executive level training programs.
- DDS is collaborating with other departments to offer open internet-based civil service exams that provide for the best possible candidate pool. This is being done for entry level, analytical as well as more experienced staff. For example, the Staff Services Manager I exam will be given on an open basis and is expected to attract people who are mid-career in the private sector, to state government. This will be especially important to recruit individuals with expertise in developmental disabilities.
- For hard-to-recruit positions, the Department is using the continuous filing process for conducting civil service exams.
- Recruitment and retention pay, particularly to fill health care positions, is being strategically used in the developmental centers.
- The Department is increasing recruitment of consumers through supported employment and direct hires into state service.
- Job shadowing and mentoring are being utilized.

- The Department is sponsoring professional degree and/or licensed programs where the employee works 20 hours and attends classes for the remaining 20 hours while paid full time. Currently the developmental centers are sponsoring 111 employees and 3 nurse instructors in an attempt to "grow our own" employee base.
- Fellowship and internship programs with local universities are being pursued. For example, DDS currently sponsors 18 students. This is particularly helpful in recruiting medical professionals to our field.
- DDS is increasing attendance at job fairs and professional conferences for purposes of recruitment and advertising in college and professional publications.

9. Please describe how the federal court mandates to increase compensation for clinical staff at the state prisons could impact staffing at the developmental centers. Please indicate the number of staff that have left developmental centers for employment at state prisons.

While some of the recruitment efforts described above have been successful, DDS has found it very difficult to fill vacant positions and the court orders have led to some staff moving to other state entities. To date, we have lost 36 nurses, 3 physicians, and 5 pharmacists to other departments. We are beginning to lose psychiatric technicians as well, and expect to see an exodus of psychologists, clinical dietitians, and several other classes, as soon as the salary increases for these classes are determined. More than 107 developmental center employees, predominantly nurses, physicians, and pharmacists, have applications in process for positions with other departments. In addition to the 5 pharmacists who already transferred, 19 more, including Pharmacy supervisors and Pharmacy Services Managers, have applied for or interviewed for positions outside DDS. With diminishing licensed staff resources, DDS will be challenged to meet licensing standards and provide quality consumer services. DDS will continue to consider and implement aggressive strategies to address the staffing needs of the developmental centers. Such strategies may include more robust recruitment efforts, contracting for positions critical to maintaining licensure and operations, as well as salary increases.

10. Please briefly describe the mechanisms through which DDS monitors the performance of regional centers. What steps are you taking to ensure that DDS has the appropriate performance measurement and accountability systems in place for proper oversight of the regional center system?

In California, the developmental services system is administered through a contract with 21 nonprofit organizations (regional centers). The State holds the regional center board of directors accountable for compliance with contract terms, the Lanterman Act, and all applicable statutes and regulations. This includes assurances that services are

appropriately delivered and targeted to the needs of eligible consumers. Oversight of the regional centers by DDS is critical to ensure delivery of services to the 210,000 consumers who live in the community. This contractual relationship is enforced by numerous monitoring and oversight activities. For example, DDS:

- A. Conducts bi-annual audits of each regional center and reviews contractually required annual independent audits.
- B. Monitors expenditures. Existing statute requires strict accountability and reporting of all revenues and expenditures by the regional centers. In addition, each regional center contract requires submission of monthly Purchase of Services (POS) expenditure projections. DDS works closely with the regional centers to develop funding allocation methodologies and to monitor expenditures.
- C. Requires regional centers to electronically report special incidents including all consumer deaths, serious injuries, suspected abuse or neglect, and unplanned hospitalization. These reports are reviewed daily.
- D. Conducts onsite programmatic Regional Center monitoring to ensure contract compliance and to address specific concerns.
- E. Attends quarterly regional center board meetings.
- F. Uses special contract provisions or places a regional center on probation if necessary to ensure contract compliance and service delivery. If noncompliance continues, contract termination can be pursued.

11. How will you ensure that regional centers have meaningful participation in statewide projects that are dependent upon successful implementation by the regional centers?

One of my short-term goals as Director is to improve coordination and communication with the regional centers. First, I am visiting all the centers to meet the staff, board members, service providers, families, consumers, and advocates. I have already been to 11 centers and will tour the rest in early 2007. Second, I and key DDS deputy directors attend all of the Association of Regional Center Agencies' (ARCA) Board of Directors meetings and meet at least twice a month (and often weekly) with the Executive Director of ARCA. DDS staff attends ARCA subcommittee meetings and the Department partners with them on statewide training efforts. Third, DDS is ensuring regional center participation and consultation throughout the development of statewide policies and programs. A recent example of successful collaboration is the establishment of criteria for the distribution of \$19 million appropriated for wage increases in integrated work and day programs. Open and regular communication will continue to be the practice of DDS.

12. What is the department's plan and time frame for implementation of the self-directed services program, including anticipated steps and dates for federal waiver submission and approval, regulations adoption, and implementation of the California Developmental Disabilities Information System or any other alternative system for tracking essential program data?

Implementation of the Self-Directed Services program is a top priority for DDS. This program will allow consumers to control the purchase of services consistent with their approved individual program plan. Implementation of the program requires the development of regulations, the approval of a federal waiver, and the use of information technology that will track the individual budgets and meet federal billing requirements.

In October 2006, DDS convened three stakeholder meetings and three Executive Teleconference calls with stakeholders to receive input on the Draft Self-Directed Services (SDS) regulations. DDS received vital input from consumers, families, and a wide range of consumer and stakeholder organizations, including from the Association of Regional Center Agencies, State and regional center Consumer Advisory Committees, Self-Determination Pilot Project Steering Committee, Protection and Advocacy, Inc., Service Employees International Union, the California Rehabilitation Association, ARC-California, People First of California, and various other organizations.

DDS is currently completing an internal review and revision of the draft regulations in preparation for submission to the Office of Administrative Law in April 2007.

Simultaneously, the Department has been working with statisticians from the California State University, Sacramento, to develop an Individual Budget (IB) methodology. DDS is conducting a pilot study of the proposed IB methodology at four regional centers (Eastern Los Angeles Regional Center, Central Valley Regional Center, Tri-Counties Regional Center, and Westside Regional Center) that volunteered to participate. DDS is analyzing the budgets of participants from the existing Self-Determination Pilot regional centers and randomly selected consumers from the four volunteer regional centers.

DDS staff is also reviewing the draft application of the Home and Community-Based Services Waiver to ensure consistency with the modified draft regulations and anticipates submitting the application to the Department of Health Services in April 2007.

Implementation of Self-Directed Services was linked to the roll out of the California Developmental Disabilities Information System (CADDIS), which was discontinued on December 5, 2006. DDS is currently exploring alternatives that will ensure program and fiscal monitoring is achieved, consistent with federal requirements.

- 13. Please provide a status report on community housing development under the BAHP, including the number of properties already purchased, developed, and occupied by each regional center area and the estimated time frame for completion of the housing development.**

The closure of Agnews Developmental Center relies upon a comprehensive community development plan. The plan includes the use of several existing service models and the development of new and innovative housing and program designs. Agnews is scheduled to close in June 2008. Through November 2006, 99 consumers have moved into the community, including 5 who are residing in the new family teaching homes and 26 consumers living in specialized residential programs. The number and complexity of the innovative efforts have presented many challenges for the State.

The acquisition of properties under the Bay Area Housing Plan (BAHP) is on target, with 28 homes either purchased or in escrow. Construction on these properties is about two months behind schedule because of the complexities of the designs and the permitting processes. The developer is pursuing measures to get back on schedule. A chart is enclosed (Enclosure 3) describing each property acquired. Occupancy of the first home is expected in January-February 2007. The developer is planning to complete the remaining purchases, on schedule, by the summer of 2007.

- 14. What challenges have DDS and the Bay Area regional centers recently encountered in housing development, and what steps are being taken to address these issues? In your response please explain the nature and extent of any community opposition to property development and how those situations were resolved. What can the department and the Bay Area regional centers do to address community opposition to the housing development?**

As previously mentioned, the closure of Agnews involved new and creative housing options. Often innovation comes with unexpected challenges—that has definitely been the case with the BAHP. First, DDS spent many months negotiating a complex financing arrangement involving 10 parties, including the Bank of America and the California Housing Finance Agency. With all paperwork signed on March 31, 2006, the developer began acquiring property in April—prior to the real estate market decline. Finding single-story, four or five-bedroom affordable homes to purchase in the Bay Area was a challenge.

The acquisition of property is on track but the construction has been delayed by local permitting (13 separate jurisdictions and processes) and architectural challenges. Efforts are underway to expedite resolution of these issues and the process has been modified to engage local officials during the design phase.

As previously mentioned, 28 homes have been acquired, none of which have received community opposition; however, the process for informing the neighbors is not complete for several homes. One prior purchase encountered strong opposition from some

neighborhood residents who quickly organized immediately after the property was purchased. Although the property was exempt from local zoning controls, due to the acrimonious nature of the opposition, the property was resold.

To ensure community support, the resource development teams are using several preventive and interventive measures, with communication being the key to success.

- First, resource development teams are trying to avoid any opposition in the first place. Important factors to this goal include identifying locations that have adequate on-property parking and identifying any potential setbacks that will allow these homes to blend into the existing neighborhood. They are also choosing properties to purchase that are attractive, or that provide an opportunity in the rehabilitation process to make the house one of the more attractive homes in the neighborhood.
- When opposition is encountered, DDS, the regional center, builder and licensing office will coordinate a strategy, depending on the nature of the opposition. Providing information about the consumers, the service providers and the state and regional center oversight of the facility will help allay concerns.
- Service providers have a role to play here as well. Rapid response by service providers to neighbor concerns is critical to the ongoing success of these new community living arrangements and this is constantly discussed at meetings held by the resource development teams.

15. What specific actions are DDS and the Bay Area regional centers taking to increase the supply and capacity of private service providers in the Bay Area?

Successful movement of Agnews consumers into the community is dependent upon an adequate supply of service providers. Each regional center has selected providers who will operate the homes but they will need administrators, direct care staff and other support. DDS has been focusing on the preparation of Agnews Developmental Center staff to help meet these needs.

A number of training sessions have been provided to Agnews staff that included information on becoming licensed care providers, operating Adult Family Homes and Family Teaching Homes, and how they can participate in the State Staff program and continue to be state employees while providing services to consumers in the community.

In addition to these overviews, specific training has been offered.

- A. Those staff who wish to work with regional centers in providing consumer services have been offered sessions to help them understand the entire service delivery system now in place for persons with developmental

disabilities. This includes detailed descriptions of the role of regional centers, DDS, the two main licensing entities, and various consumer advocate organizations. The purpose of these sessions is to better prepare Agnews staff to be competitive candidates when they are interviewed by the regional centers or service provider organizations. Although Agnews staff have very important experience working with consumers at the developmental center, they often are not familiar with the community services system.

- B. Service providers will need a continuing supply of certified administrators for licensed homes. Three training sessions have been held in conjunction with the Community Care Licensing Administrator Certification Program to acquaint Agnews staff with the process for becoming certified administrators. Plans are underway for offering Agnews staff who receive employment offers the required certification coursework.

16. How is the department planning to meet the anticipated growing demand for residential, employment, and other services for persons with autism as that population ages?

The number of DDS consumers diagnosed with autism continues to increase although the rate of increase has moderated. On average each month, at least 275 newly diagnosed individuals with autism are served by the regional centers. As of June 2006, there were almost 22,000 children with autism, between 3 and 14 years of age, in our system, compared with about 8,000 in June 2000. (See Enclosure 4 for more details.) As these children age out of the school system, there will be significant demand placed on the regional centers to provide residential, employment and treatment services. DDS, working closely with our stakeholder community and other experts, are currently developing best practice guidelines for serving individuals with autism. Through the Autistic Spectrum Disorders (ASD) Initiative we will be disseminating guidelines for effective interventions that will be designed to assist families and clinicians in identifying interventions that avoid, whenever possible, moving children out of their family home.

Through DDS's ASD Initiative, we are striving to create a more extensive network throughout California, to share information on service needs and effective interventions, and develop innovative resources for this growing segment of the population. DDS is also encouraging the development and utilization of alternative housing, such as Family Home Agencies and Supported Living Services, for consumers with ASD, which allow consumers to have maximum control over their environments.

With funding provided in the current year, DDS is encouraging regional centers to develop specialized integrated day and work services that meet the needs of individuals with autism, especially those graduating from the school system. DDS is working closely with the State Council on Developmental Disabilities to implement SB 1270 geared toward expanding employment and day program options for the changing consumer population. DDS is also coordinating with The Legislative Blue Ribbon Commission on Autism and attending all of the workgroup meetings.

- 17. What steps could DDS take to increase collaboration with other state departments that have a role in serving persons with autism (i.e., the Department of Education, Department of Health Services, Department of Managed Health Care, Department of Social Services)? What steps could DDS take to ensure greater collaboration at the local level between regional centers, schools, health care providers, family resource centers, and others that serve persons with autism?**

Increased collaboration, at the state and local level, among providers serving persons with autism is a high priority for DDS.

As previously mentioned, DDS has launched a focused effort to develop evidence-based guidelines for treatment interventions for persons diagnosed with an Autistic Spectrum Disorder (ASD). DDS's advisory committees involved in developing these guidelines include representatives of relevant state departments (including Department of Education and Department of Mental Health), representatives from managed care, universities, and numerous advocacy organizations (i.e., Medical Investigation of Neurodevelopmental Disorders (M.I.N.D.) Institute, Families for Early Autism Treatment, and PRIDE Industries).

DDS actively participates and in some instances guides local professional training efforts among regional centers and medical schools. DDS actively collaborates with managed health care organizations such as Kaiser and Cal Optima. Further, DDS has recently collaborated with the Department of Education (CDE) regarding services to children with ASD and in CDE's development of longitudinal data methods to track the progress of these persons over time.

In addition, DDS is coordinating with the State Council on Developmental Disabilities on implementation of SB 1270 (Chesbro) and with the education community on implementation of Assembly Bill (AB) 2513 (Chapter 783, Statutes of 2006, Pavley) related to best practices in education for serving students with autism.

I will be requesting a meeting with the Governor's Secretary of Education and the Superintendent of Public Schools to discuss other avenues for improved collaboration.

In the area of health care, DDS is pursuing several innovative approaches to improve services for all persons with developmental disabilities, including those diagnosed with autism. We are sponsoring scholarships and fellowships; providing specialized training for practicing medical professionals; and have developed a specialized dental program, in cooperation with the University of the Pacific, that includes some in-home screenings for needed dental care.

DDS continues to collaborate with UC Medical Schools to provide training and education opportunities for healthcare providers, regional center staff, and other social service professionals. These opportunities are designed to improve the quality of

services provided, and also to encourage providers who may have been reluctant initially to serve this population. We will continue our efforts to increase and enhance system capacity.

Significant efforts are underway at the local level as a result of funding in the current year budget for the Autistic Spectrum Disorder Initiative. The 2006-07 budget added one ASD Program Coordinator and one ASD Clinical Specialist at each of the 21 regional centers.

The ASD Program Coordinator will be the primary point of contact at the regional centers. This position will ensure coordination, communication, training and technical assistance with external stakeholders and agencies. The ASD Program Coordinator will work with parents, consumers, and provider groups to ensure current, evidence-based approaches to ASD are understood; and provide outreach that is culturally and age appropriate to assure the successful implementation of the best practice guidelines (once developed). The ASD Program Coordinator will play a critical liaison role with regional center providers, the local ASD Resource Center, schools, and other education stakeholders, city and county social service agencies, and advocacy groups.

The ASD Clinical Specialist will assist case managers with clinical referrals, advise intake units on best practice guidelines for the screening, diagnosis, and assessment of individuals with ASD, and provide technical assistance to local clinicians and service providers.

Through these efforts, DDS will be able to share best practices from the local level. One example is the excellent collaboration between the Harbor Regional Center and the Long Beach Unified School District. These providers developed a unified process for assessing and funding the service needs of children diagnosed with autism. They jointly develop the education and program plans and co-locate the delivery of services to ensure continuity as the children move from the Early Start Program to school and then ultimately graduate into the work force. The ability to replicate this model in areas that do not already have an effective system would significantly improve coordination for consumers, families, regional centers, and the school system.

Client Characteristics at the end of September 2006
Statewide

Cerebral Palsy:	Autism:	Severe Behaviors:	Epilepsy:	Vision Problems:
No	No	No	No	No
Yes	Yes	Yes	Yes	Yes
81.42%	153,020	171,518	147,401	156,905
18.58%	31,853	13,355	37,472	27,968
82.77%				
17.23%				
79.73%				
20.27%				
84.87%				
15.13%				

Hearing Problems:		Both Vision and Hearing Problems:		Walks Without Support:		Medical Problems:		Dual Diagnoses:			
No	170,767	92.37%	No	178,492	96.55%	No	132,005	71.40%	No	166,049	89.82%
Yes	14,106	7.63%	Yes	6,381	3.45%	Yes	148,472	80.31%	Yes	18,824	10.18%

[illegible]

Ethnicity:	Age Groups: (Ages 0-2 not collected on CDER)	Special Health Care Requirements:
Asian	10,576	No 140,030 75.74%
Polynesian	417	Yes 44,843 24.26%
Other	12,706	
Black/Af Am	19,524	
Filipino	3,967	
Native Am	745	
Hispanic	57,969	
White	78,969	

Risk Factors:		Special Conditions		Recency of Evaluations:	
* None	126,981	68.69%		Less than 12 Months	154,642
One	40,151	21.72%	* None	12 to 18 Months	18,196
Two	11,885	6.43%	One	18 to 24 Months	5,732
3 or More	5,856	3.17%	Two	24 to 36 Months	4,604
			3 or More	Over 36 Months	1,699
					0.92%

	English Spoken: (as Primary Language)	Other Developmental Disabilities:
* Includes "Not Assessed".	NO 42,734 23.12%	NO 166,199 89.90%
** Includes DC clients.	Yes 142,139 76.88%	Yes 18,674 10.10%

Total clients (status 0,1,2,3,8 CDERS): 184,873 - (Status 1/Early Start Consumers not reflected in the above data)
Note: CDER information is not available for all clients
Source: CDER Master File of Tuesday, October 3, 2006

**Number of Persons Served By DDS as of the End of September 2006, Broken Out by Status Code,
Gender, Residence Type, Ethnicity and Age Group**

Category	At Risk Infants/ Toddlers (status 1)	Active Consumers Residing in Community (status 2)	Active Consumers Residing in Developmental Ctrs. (status 8)	Total Persons Served (status codes 1, 2, & 8)
Genders:				
Female	9,997	72,467	1,047	83,511
Male	16,329	111,564	1,881	129,774
Total - Gender	26,326	184,031	2,928	213,285
Residence Types:				
Home of Parent/Guardian	24,594	130,140	0	154,734
Community Care Facility	1,528	25,182	0	26,710
Indep./Supported Living	0	18,626	0	18,626
ICF	24	7,361	0	7,385
Developmental Center	0	0	2,906	2,906
SNF	2	1,411	0	1,413
Other	178	1,311	22	1,511
Total - Residence Types	26,326	184,031	2,928	213,285
Ethnicities:				
Asian	1,621	10,631	62	12,314
Polynesian	55	425	3	483
Black/African American	1,500	19,363	275	21,138
Filipino	346	4,010	10	4,366
Native American	78	744	7	829
Hispanic	10,947	58,535	367	69,849
White	7,812	77,516	2,058	87,386
Other	3,967	12,807	146	16,920
Total - Ethnicities	26,326	184,031	2,928	213,285
Age Groups:				
0 thru 2 yrs.	24,922	1,361	0	26,283
3 thru 5 yrs.	1,402	15,432	0	16,834
6 thru 9 yrs.	2	21,980	0	21,982
10 thru 13 yrs.	0	20,575	3	20,578
14 thru 17 yrs.	0	19,429	31	19,460
18 thru 21 yrs.	0	16,982	101	17,083
22 thru 31 yrs.	0	30,021	337	30,358
32 thru 41 yrs.	0	21,668	525	22,193
42 thru 51 yrs.	0	20,106	954	21,060
52 thru 61 yrs.	0	11,302	664	11,966
62 and Older	0	5,175	313	5,488
Total - Age Groups	26,326	184,031	2,928	213,285

Department of Developmental Services
Bay Area Housing Plan

ACQUIRED & ESCROWED PROPERTIES
Report Month: November 2006
(Cumulative)

Proj. No. (1)	Regional Center & NPO	Property Address	Property Type	Purchase Price/Cost	Lot Size	Structure Square Footage	Close of Escrow	Date Construction or Renovation Complete
Regional Center: SARC-Properties Acquired								
5	SARC-BAHC	506-508 Northlake Drive San Jose, CA 95117	FTH	\$820,000	7,371	2,239	7/24/2006	12/24/2006
10	SARC-BAHC	1527-1529 Eden Avenue San Jose, CA 95117	FTH	\$875,000	6,098	2,198	6/26/2006	12/24/2006
11	SARC-BAHC	629-631 Vasona Avenue Los Gatos, CA 95032	FTH	\$860,000	6,970	2,397	7/31/2006	2/25/2007
12	SARC-BAHC	637-639 Vasona Avenue Los Gatos, CA 95032	FTH	\$860,000	6,970	2,397	7/31/2006	2/25/2007
13	SARC-BAHC	625-627 Vasona Avenue Los Gatos, CA 95032	FTH	\$860,000	6,970	2,397	7/31/2006	2/25/2007
15	SARC-BAHC	1320 Baywood Avenue San Jose, CA 95128	962-5R	\$925,000	8,275	2,373	7/6/2006	12/23/2006
20	SARC-BAHC	4865 Wellinton Park Pl. San Jose, CA 95136	SRH-3	\$762,000	7,405	2,084	10/2/2006	4/4/2007
22	SARC-BAHC	14329 Mulberry Drive Los Gatos, CA 95032	962-5N	\$749,950	10,890	720	10/9/2006	8/8/2007
23	SARC-BAHC	1446 Flora Avenue San Jose, CA 95130	962-5N	\$785,000	10,019	1,653	10/21/2006	8/9/2007
59	SARC-BAHC	2334 Oak Flat Road San Jose, CA 95131	SRH-3	\$770,000	6,098	1,994	10/25/2006 (Estimated)	4/15/2007
Regional Center: SARC-Properties in Escrow								
30	SARC-BAHC	5486 Yale Drive San Jose, CA 95118	962-5R	\$798,000	6,098	1,900	12/15/2006	
32	SARC-BAHC	649 Empey Way San Jose CA, 95128	962-5N	\$790,000	8,276	2,300	12/15/2006	
60	SARC-BAHC	15134 Charmeran Avenue San Jose CA, 95124	SRH-3	\$829,900	7,840	1,790	1/19/2006	

Footnotes

(1) Current month acquired project number(s) **in bold italics**.

Department of Developmental Services
Bay Area Housing Plan

ACQUIRED & ESCROWED PROPERTIES
Report Month: November 2006
(Cumulative)

Proj. No. (1)	Regional Center & NPO	Property Address	Property Type	Purchase Price/Cost	Lot Size	Structure Square Footage	Close of Escrow	Date Construction or Renovation Complete
Regional Center: RCEB-Properties Acquired								
41	RCEB - HCEB	21763 Shadyspring Road Castro Valley, CA 94546	SRH-3	\$670,000	6,890	1,771	10/3/2006	4/8/2007
14	RCEB - HCEB	2654 Chablis Way Livermore, CA 94550	962-5R	\$870,000	11,800	2,439	9/15/2006	1/3/2007
38	RCEB - HCEB	2508 Regent Road Livermore CA 94550	962-5R	\$835,000	11,205	2,300	9/25/2006	1/20/2007
46	RCEB - HCEB	32744 Olympiad Court Union City, CA	962-5R	\$880,000	6,559	2,086	10/23/2006	5/19/2007
50	RCEB - HCEB	5508 Jasmine Court Castro Valley, CA 94552	SRH-4	\$805,000	10,000	1,908	7/26/2006	12/24/2006
6	RCEB - HCEB	1169 Sand Beach Place Alameda, CA 94501	SRH-3	\$719,000	8,056	1,543	11/17/2006	TBD
43	RCEB - HCEB	24615 Patricia Court Hayward, CA 94514	SRH-3	\$705,000	6,000	2,051	11/22/2006 (Estimated)	TBD
Regional Center: RCEB-Properties in Escrow								
33	RCEB - HCEB	15470 La Alameda Drive Morgan Hill, CA 95037	962-5R	\$759,950	7,400	1,700	11/23/2006	
9	RCEB - HCEB	32724 Fairfield Street Union City, CA 94587	SRH-3	\$887,500	13,503	2,912	1/9/2007	

Footnotes

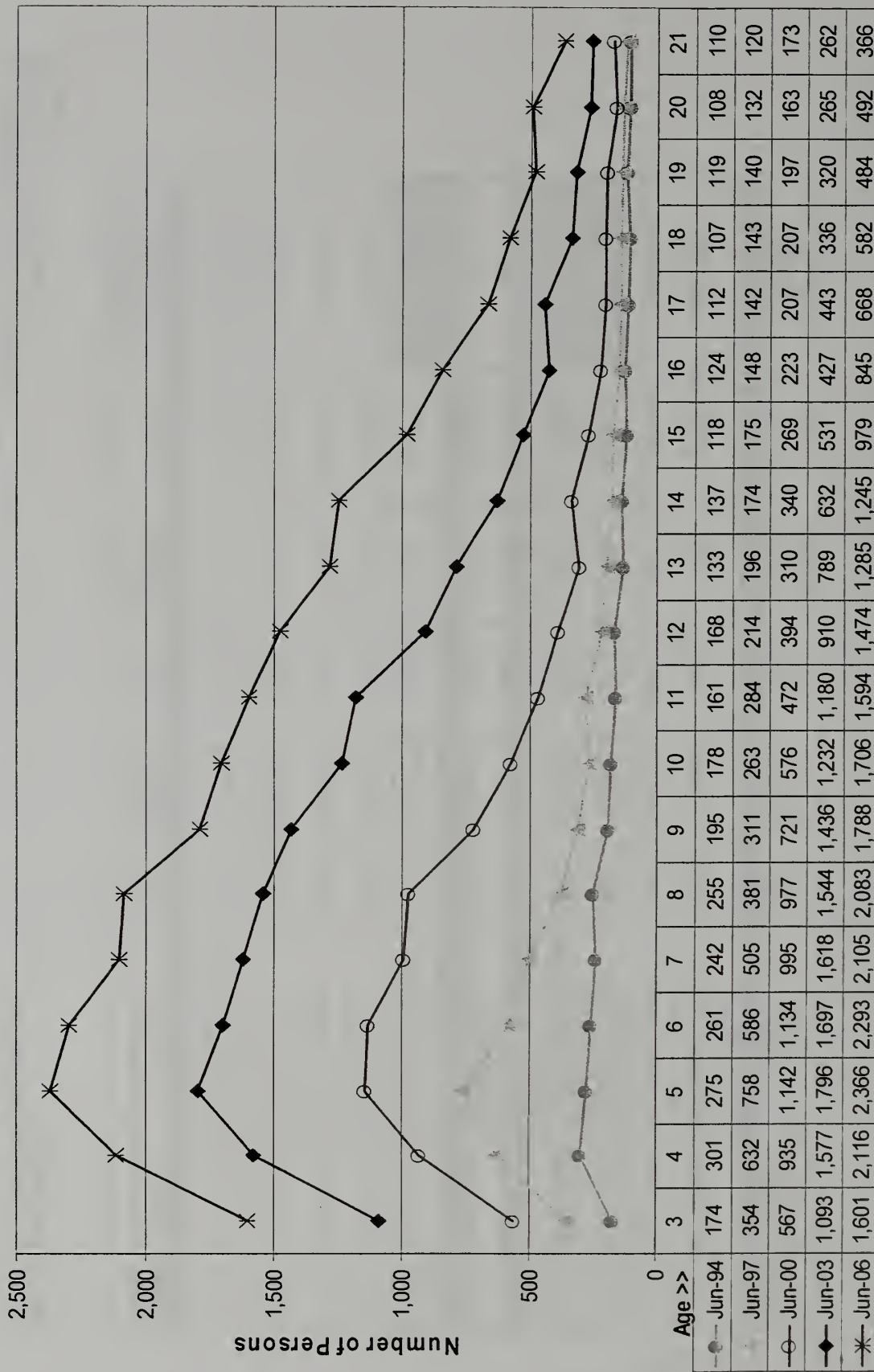
(1) Current month acquired project number(s) in **bold italics**.

Proj. No. (1)	Regional Center & NPO	Property Address	Property Type	Purchase Price/Cost	Lot Size	Structure Square Footage	Close of Escrow	Date Construction or Renovation Complete
Regional Center: GGRC-Properties Acquired								
7	GGRC-WBHC	227 Prague Street San Mateo, CA 94401	SRH-3	\$771,000	5,000	1,380	7/10/2006	12/24/2006
8	GGRC-WBHC	1720 Pierce Street San Mateo, CA 94403	SRH-3	\$775,000	5,000	1,620	8/18/2006	12/17/2006
25	GGRC-WBHC	633 Vanessa Drive San Mateo, CA 94402	SRH-3	\$750,000	5,053	1,670	10/11/2006	5/10/2007
18	GGRC-WBHC	1112 Sunnyside Drive S. San Francisco, CA 94080	SRH-3	\$849,000	4,550	2,670	11/7/2006	TBD
35	GGRC-WBHC	740 Palm Avenue S. San Francisco, CA 94080	SRH-3	\$850,000	5,500	1,550	11/7/2006	TBD
19	GGRC-WBHC	680 Edna Way San Mateo, CA 94402	962-4R	\$788,888	5,400	1,560	11/6/2006 (Estimated)	TBD
Regional Center: GGRC-Properties in Escrow								

Footnotes

(1) Current month acquired project number(s) **in bold italics**.

Number of Persons with Autism (Codes 1 & 2) Ages 3 Through 21 at Five Points in Time



Transition and Oversight of Consumers
Moving from the Developmental Center to the Community
(Revised 1/9/07)

It is the highest priority to ensure the safe and successful transition to the community of developmental center (DC) residents who have been recommended for placement through the individual planning process. The process is multi-faceted and includes close monitoring.

I. Pre-placement Process

Placement decisions for each consumer are made by an interdisciplinary planning team and reflect the needs of the individual. If a resident is recommended for transition to the community, community-based services are identified and a comprehensive transition process is coordinated by state staff, including:

- Day visits to community service providers including the proposed residence, supervised by staff who know the consumer well.
- Overnight visits or weekend visits to the residential placement if the transition is proceeding successfully.
- If problems arise or it appears that community providers are not able to meet the consumer's needs, the process is delayed or stopped until identified problems can be resolved.
- A minimum of 15 days prior to community movement, the planning team meets to ensure that all services, including medical services, are ready to help ensure a smooth and safe transition.

II. Post-Placement Monitoring

Upon an individual's move to a community living arrangement, state staff, in cooperation with the Regional Center (RC), closely monitor the placement to ensure a smooth transition. Provisions are in place for the protection of consumer health and safety through the Department of Developmental Services (DDS), the RCs, the Department of Social Services (DSS), and the Department of Health Services (DHS).

- State staff provide follow-up 5 days, 30 days, 6 months, and 12 months after the move.
- State staff, in coordination with the RC, provide additional visits, supports, and onsite training to the consumer and/or the service provider as needed to address the individual's service needs.
- The RC conducts face-to-face visit every 30 days for the first 90 days after the move and as determined by the Individual Program Plan thereafter.

- During the initial year following transition from a DC, consumers receive enhanced RC case management. For Agnews residents, the enhanced case management is for two years.
- Each consumer moving from Agnews has an individual health care plan that identifies his or her primary care physician, dentist, and all other specialty health care providers.
- Medically fragile consumers transitioning from Agnews to DSS-licensed homes for consumers with special health care needs will be visited by a nurse at least monthly, or more frequently as appropriate. At least four of these visits shall be unannounced. In addition, these consumers will be seen by a physician at least every 60 days or more frequently if specified in the consumer's individual healthcare plan.
- Following the initial placement period, RC personnel visit all individuals, including former Agnew's residents, residing in community care facilities and intermediate care facilities four times annually; and conduct at least two unannounced visits.
- DSS conducts annual unannounced visits to community care facilities.
- DHS conducts annual unannounced licensing and recertification visits of health care facilities.
- Consistent with the State's commitment to the federal government, DDS and the DHS conduct joint on-site reviews, at least biennially, of each RC and selected providers. Visits include consumer record reviews, interviews with RC service coordinators, quality assurance and clinical staff and service providers, consumer interviews and physical plant reviews to assess consumer health and safety, satisfaction and adequacy of service provision.
- DDS conducts daily reviews of Special Incident Reports to provide oversight to ensure consumer health and safety and to identify potential trends in incidents.
- A 'quality assurance council', consisting of family members, consumers, and providers has been convened whose function is to review and monitor the quality of services provided to consumers who have moved from Agnews.
- For every individual who has moved from a DC since April 1995, an independent contractor evaluates the consumer's quality of care, programs, health and safety, and satisfaction. This information is analyzed and reported to the Legislature annually.
- The area boards conduct a "life quality assessment", no less than once every three years, for every consumer living in an out-of-home community setting. These assessments help ensure people are receiving the services they need and that any follow-up issues are communicated to the appropriate entities.



APPOINTEE

ANN LOUISE BOYNTON

UNDERSECRETARY, CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY

APPOINTEE BACKGROUND

Appointed by Governor Schwarzenegger, effective February 16, 2006

Office of Governor Schwarzenegger

Chief Deputy Cabinet Secretary 2005—2006

California Department of Toxic Substances Control

Deputy Director 2004—2005

Delegata, Program Manager (May to September) 2004

IBM Corporation, Managing Consultant 2001—2004

Ann Boynton Consulting, Owner 1993—2000

MGT of America, Analyst/Senior Analyst/Project Manager 1986—1993

Master of Arts, English, University of Notre Dame

Bachelor of Arts, English, and Philosophy, California Lutheran University

DISCUSSION OF ISSUES AND POTENTIAL QUESTIONS

1. POSITION DESCRIPTION	2
2. AGENCY OVERSIGHT OF DEPARTMENTS	2
3. PUBLIC HEALTH EMERGENCY PLANNING	3
4. HEALTH INFORMATION TECHNOLOGY	4
5. STATE INFORMATION TECHNOLOGY PROJECTS	4
6. PRESCRIPTION DRUG SAFETY	5
7. LICENSING AND CERTIFICATION	5

POSITION DESCRIPTION

The California Health and Human Services Agency administers the state's health and human services programs. The agency oversees the departments of Aging, Alcohol and Drug Programs, Developmental Services, Child Support Services, Community Services and Development, Health Services, Mental Health, Rehabilitation, Social Services, the Emergency Medical Services Authority, the Office of Statewide Health Planning and Development, the Managed Risk Medical Insurance Board, the Office of Systems Integration, and the Office of Health Insurance Portability and Accountability Implementation.

Together, these entities have budgets totaling 32,041 positions and \$74.4 billion in total funds. Major health and human services program caseloads include:

Projected Health and Human Services Program Caseloads, 2006-07	
<u>Program</u>	<u>Caseload</u>
Medi-Cal	6,806,800
SSI/SSP	1,241,000
Healthy Families	933,100
Food Stamps (non-CalWORKs cases)	565,500
CalWORKs	487,000
In-Home Supportive Services	396,000
Alcohol and Drug Programs	226,839
Developmental Disability Services (regional centers)	213,740

AGENCY OVERSIGHT OF DEPARTMENTS

The agency oversees the departments under its jurisdiction. Although departments are responsible for meeting their statutory requirements, the agency also plays a role in ensuring that departments implement state laws. Concerns are raised when departments delay compliance with these requirements. For example, some departments have had difficulty meeting statutory deadlines for required reports to the Legislature.

Agency Oversight of Departments

1. What is the role and responsibility of the agency in ensuring that departments meet their statutory requirements?
2. What steps are you taking to ensure timely statutory compliance by departments?

* * * * *

PUBLIC HEALTH EMERGENCY PLANNING

The federal government has provided several state departments with grant awards related to preparedness for bioterrorism, pandemic influenza, and homeland security. In addition, the 2006 Budget Act provided increased funding for public health emergency planning for the Department of Health Services.

One question is whether the different emergency plans adequately address the needs of certain vulnerable populations, including seniors, persons with disabilities, and children. For example, the U.S. Government Accountability Office recently released a report that found California to be among the states that have failed to have a written child welfare disaster plan.

Public Health Emergency Planning

1. How are you coordinating with other state entities, such as the Office of Emergency Services and the Office of Homeland Security, the expenditure of funds and emergency plans to respond to public health emergencies?

2. What steps are you taking to ensure that emergency plans adequately address the needs of vulnerable populations, such as individuals living in nursing homes and persons with disabilities living in their own homes? How has the agency addressed the Government Accounting Office's finding regarding the lack of a written child welfare disaster plan?

* * * * *

HEALTH INFORMATION TECHNOLOGY

In July 2006 the governor issued an executive order requiring the agency to co-convene a California eHealth Action Forum. The executive order requires the presentation of an action plan outlining how the state will implement a comprehensive health information technology program by July 1, 2007. The governor indicated that \$240 million would be available for health information technology.

Health Information Technology

1. Please describe the activities of the California eHealth Action Forum thus far.
2. What are some of the major issues that are being discussed through this forum?

* * * * *

STATE INFORMATION TECHNOLOGY PROJECTS

The agency recently assumed greater responsibility in the oversight of information technology projects related to health and human services programs. For many years, the state has experienced major difficulties in developing and implementing major information technology projects, with delays leading to significant increases in state costs. The projects under the

purview of the agency represent some of the state's largest automated systems and play a key role in the delivery of health and human services programs. For example, the agency helps oversee the statewide automated systems in the welfare program and the child support program.

State Information Technology Projects

1. What is the agency's role in ensuring the successful development and implementation of state information technology projects under its purview?
2. What are some of the major challenges to implementing these projects, and what steps have you taken to address these challenges?

* * * * *

PRESCRIPTION DRUG SAFETY

Over the past several years, state legislative proposals have been introduced to improve the availability of information to Californians regarding the safety of prescription drugs. While the federal government does collect information on adverse events related to prescription drugs, some have argued that more efforts are needed by the state to provide information to patients regarding drug safety.

Prescription Drug Safety

1. What do you think the state's role should be in addressing the issue of prescription drug safety?

* * * * *

LICENSING AND CERTIFICATION

Recently the agency conducted a review of the licensing and certification requirements for health and community care facilities. The 2006 Budget Act provided additional resources to improve state licensing and certification of hospitals, nursing homes, clinics, and other facilities. Also, legislation was enacted to improve several areas of licensing and certification, including criminal background checks, nursing home inspections, and inspections of community care facilities.

Licensing and Certification

- 1. What steps are being taken by the agency and the relevant departments to recruit and train new staff to conduct licensing and certification activities?**
- 2. How will the agency oversee the implementation of recent licensing and certification reforms and monitor needs for additional program changes?**

* * * * *

Prepared by Agnes Lee

State of California HEALTH AND HUMAN SERVICES AGENCY



BERLY BELSHÉ
SECRETARY

December 18, 2006

Nettie Sabelhaus
Appointments Director
Senate Rules Committee
State Capitol, Room 420
Sacramento, California 95814

Dear Ms. Sabelhaus:

Thank you for the opportunity to share some of my perspectives and priorities with you. I am honored that Governor Schwarzenegger has expressed his confidence in me by appointing me as Undersecretary of the Health and Human Services Agency. The Agency has the honor of serving those Californians who are most in need of assistance and I am pleased to be able to contribute to that effort.

I look forward to my confirmation hearing.

Ann Boynton, Undersecretary
Health and Human Services Agency

Senate Rules Committee

DEC 18 2006

Appointments

DRAFT

1. Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as undersecretary of the Health and Human Services Agency?

The Health and Human Services Agency has articulated five primary goals:

- Every child will live in a safe, stable, permanent home, nurtured by healthy families and strong communities.
- Every Californian will have access to high quality, affordable health care coverage
- California will support and value healthy lifestyle behaviors, particularly physical activity and health eating, to improve health outcomes and reverse the upward obesity trend
- Disabled and aged Californians will have the opportunity to live in their own homes and communities, rather than institutional settings, in the most integrated setting possible.
- California will have a state-of-the-art public health system with the capacity to prevent and respond to disease outbreaks and disasters, especially those involving bioterrorism.

The work of accomplishing these goals is largely done by the departments, board and office within the agency, with guidance and support from Agency. During my tenure at the agency, I will focus on enabling the infrastructure necessary to ensure that our departments are able to meet these goals. Specifically, I will work to ensure that we are as prepared as possible to meet the challenges that will flow from the retirement of significant portions of our workforce; prepare staff through management and supervisory academies to manage government in the 22nd century; and improving service to our clients. In addition, information technology will play a significant role in the ability of the State to advance services to its constituents. Leveraging my background in consulting and information technology, I will strive to improve on the Agency's already strong track record of project success. The relationship of the Agency with the Legislature is of extreme importance. I will work to ensure that our relationship with you is strong and open.

2. What do you view as the role and responsibility of the Agency in the administration of health and human services programs?

Supporting the delivery of critical health and human services to millions of vulnerable Californians is a rewarding, complex, and challenging endeavor. Agency's role is to improve service delivery, find ways to better serve consumers, coordinate activities across the agency, and set a consistent vision of the future. It is the role of Agency to set a vision, and provide the appropriate organizational and operational framework to allow the departments to achieve that vision. Agency serves as an enabler of solutions, and should focus on ensuring that barriers to success are identified early and addressed. In addition, we serve as one access point to the wide variety of stakeholders and constituents we serve and have a vital function in hearing and responding to their articulated needs and concerns.

3. **What actions have you taken to improve the coordination of services among state departments, both within and outside the agency's jurisdiction? Please provide recent examples of how the agency's efforts to coordinate department activities have resulted in improved service delivery.**

Improving information sharing and strengthening service coordination within the Agency and across government is a key function for the Health and Human Services Agency (HHSA). During my tenure with the Agency, I have worked with our departments, sister agencies, and county partners to improve coordination in the areas of emergency preparedness and response, public safety and information technology.

Protecting Public Health

Given the Department of Health Services (CDHS) role as the lead agency during public health emergencies, HHSA has assumed a key role in informing and coordinating pandemic influenza preparedness activities. Working with the Legislature, the Office of Emergency Services, the Office of Homeland Security, the California Department of Food and Agriculture and others, we have made record investments in preparedness efforts; are strengthening California's public health infrastructure; and have participated in numerous Agency, statewide and local planning exercises. While the focus of these activities has been on pandemic influenza, our improved coordination and information sharing has served to improve our overall readiness to respond to emergencies of all kinds.

During the recent spinach e-coli outbreak, California partnered with the Federal government through the California Food Emergency Response Team to increase the speed and efficiency of outbreak investigations and to avoid duplication of efforts. Investigators, laboratory staff, and scientists from each agency receive specialized training and work as a single unit in these investigations, significantly improving communication and service delivery. CDHS partnered with industry, academia, and the Food and Drug Administration (FDA) to produce a video (Safer Processing of Fresh Cut Produce) to help educate processors on the best practices to ensure a safe product. This video has been viewed as a model for the delivery of food safety education to high-risk processors. We have also partnered with industry, academia, and FDA to hold quarterly teleconferences to share results on investigations, research efforts, and current regulatory or industry concerns in fresh cut produce. These quarterly meetings have improved communication and have addressed short-term concerns before reaching significant points.

In July, California experienced a record heat wave. The Agency assumed a leadership role in ensuring state and local agencies effectively responded to the needs of Californians, particularly those served by the Agency. With our local partners, we monitored the health and safety of residents in long-term care facilities, as well as residents in single room occupancy hotels, contacted In-Home Supportive Services beneficiaries to make sure they were safe and aware of available resources, shared up to date information regarding the heat wave with county and provider partners, and assisted in staffing the emergency operations center and a toll-free helpline. Following the heat wave, I co-chaired, with the Office of Emergency Services, the Heat Wave Task Force. The Task Force produced an addendum to the State's emergency plan and provides guidance to state agencies and local governments on how to prepare for and react to a heat emergency. This work product is particularly significant because it

represents input from first responders, local public health officers, the counties and state agencies.

Public Safety

One of my priorities since I was appointed has been to improve communication between the Department of Mental Health (DMH) and the California Department of Corrections and Rehabilitation (CDCR). The departments have been charged to work together to and resolve longstanding problems regarding the provision of mental health services to CDCR inmates and have become increasingly interdependent in dealing with high risk sex offenders and sexually violent predators. My positive working relationships with the Secretary of CDCR and his key Deputy Secretaries and Directors are integral to these processes. These relationships have enabled us to break down administrative barriers impeding the work of both departments. While there remains much room for improvement in defining and fulfilling the roles and responsibilities, I am building on this foundation to improve ongoing communications.

A recent example of how these efforts improved service delivery relates to the implementation of Proposition 83 ("Jessica's Law"), enacted by the voters in November 2006. This initiative greatly expanded the number of CDCR inmates who qualify for evaluation as sexually violent predators (SVP) and immediately created a backlog of inmates whose cases needed review and evaluation before the inmate was paroled. It quickly became apparent that the processes CDCR and DMH had used in the past to complete these reviews and evaluations were redundant and inefficient. Due to discussions between HHSA, DMH, CDCR, and the Board of Parole Hearings, the two departments were able to quickly work out an arrangement to handle the backlog of cases resulting from Jessica's Law. CDCR and DMH staff have decided to come together at a central location to jointly conduct the paper reviews, reducing the duplication of efforts and non-qualifying referrals. In addition, DMH tasked a number of its evaluators to the central location to ensure that evaluations commence immediately.

Information Technology

As the designated agency in the Federal government's current study of health privacy and security barriers to the interoperability of health records, Agency has led the initial collaborative efforts in the area of Electronic Health Information (EHI). In order to perform this function, Agency collaborates with the Departments of Managed Health Care, Health Services, Mental Health, Alcohol and Drug Programs, and representatives from local government.

The California Child Support Automation Systems (CCSAS) Project: In 2006, the CCSAS Project successfully implemented an automated system that complies with the federal mandate concerning child support enforcement. Federal law requires states to implement a single statewide automated child support system that includes case management and accounting functionality as well as a central payment processing center for collecting and disbursing child support payments. In this, its first year of operation, more than \$2 billion of child support payments have been collected and monies disbursed to California's children and families. Earlier efforts to implement a statewide system were unsuccessful, leading to the imposition of federal penalties. The successful implementation of CCSAS relieves the State of these penalties, currently in excess of \$200 million a year. While housed at the Franchise Tax Board, the system's primary clients are the Department of Child Support Services and Local Child Support Agencies (LCSA). The project is jointly managed, with tremendous success, by a

combined team that reports to the State Chief Information Officer, the Undersecretary of the State and Consumer Services Agency and me.

CCSAS provides significant programmatic benefits to both California and other states' child support programs. CCSAS provides a statewide view of child support cases, improving the ability of LCSA to collect and appropriately distribute child support payments. The system also enhances California's interstate enforcement capabilities and the ability to support other states' requests for assistance.

Enterprise GIS Program: In 2006, OSHPD extended its investment in a high quality, commercial streets database to allow all departments of the Health and Human Services Agency access to this tool. OSHPD renegotiated an existing three-year contract to include partner programs across the CHHS Agency. The benefit to other departments include a standard geographic data set for mapping of address information, as well as the avoidance of initial start-up costs necessary to begin the use of GIS technology in each organization. DHS is already making extensive use of the new capabilities. In addition, during 2006, OSHPD developed a web-based GIS application to support its Emergency Operations Center (EOC) activities. The application combines earthquake shaking information from the US Geological Survey (USGS) and OSHPD's hospital location and construction information. The application maps and delivers situational intelligence to more effectively plan and dispatch field inspectors to affected locations and healthcare facilities; and also improves situational communications with OES and other emergency response partners.

4. In the next few years it is anticipated that a number of experienced management personnel in the state will reach retirement age. How will this affect the programs that fall under your agency's jurisdiction? What steps are you taking to minimize the impact on program operations? How do you propose to attract and train replacement staff?

Like all other departments and agencies, HHSA has been experiencing institutional knowledge drain resulting from the retirement of the "baby boomer" personnel. Over 70 percent of executives and senior leaders in departments within the HHSA are over 50 years of age and our middle managers and above have, on average, over 22 years of state service experience.

Given the complexity of the programs that we and our county partners operate, and their impact on millions of Californians, we are taking actions to build the bench. Beginning in the Spring of 2005, HHSA created the Succession Planning and Management Workgroup which includes Chief Deputies, Administration Deputies, and Personnel Officers representing all 12 HHSA departments. The goal of the HHSA succession planning effort is to develop replacements for key executive/management positions in light of the imminent retirement of up to 40 percent of CEAs statewide. All HHSA departments have initiated varying forms of workforce planning.

Strategies related to succession planning initially pursued by the Workgroup include:

- Open junior analyst and management exams
- Training and development of current junior managers
- Recruitment of experienced managers/executives from outside state service

- Retention strategies

New Hires:

- **Collaborative examinations, both promotional and open.** Multi-department examinations distribute the workload more evenly and provide a single exam tool with list eligibility that can be transferred from one HHSA department to another. Multi-department exams also allow for more frequent examinations. Under my leadership, over one dozen examinations have been coordinated at the Agency level across HHSA departments.
- **Open journey-level analyst exam:** This will deepen the hiring pool and offer opportunities for those who have analyst skills from the private sector and other governmental levels. We are using a performance skills-based examination that will be undergoing final validation in January 2007.
- **Open Staff Services Manager I exam:** We are expanding the candidate pool by developing an open SSM I examination to improve the recruitment of mid-career and other management candidates into state service.
- **Transfer Policy:** As part of the selection and screening process, we have implemented the SSA transfer exam as a screening tool across all HHSA departments.
- **Recruitment options** – We continue to work with the Department of Personnel Administration to develop program and fiscal options to provide recruitment and retention incentives.

Current employees:

- **Core competencies** – We identified core competencies for our employees: the key skills and characteristics that HHSA leaders need to possess to effectively lead their organizations to accomplish our goals and objectives. These competencies have been incorporated into the Supervisors' Academy and will be folded into the Management Development Academy. The HHSA is using these core competencies to select, develop and manage our managers.
- **Supervisors' Academy** – Designed for HHSA supervisors, we are completing the pilot phase of this Academy and will be conducting post-pilot evaluations in Spring 2007. The Academy meets the needs of the mandatory 80-hour training and provides a uniform foundation for all CHHS supervisors.
- **Management Development Academy (MDA)** – We are currently awaiting responses to a Request for Proposal for the HHSA MDA which will be the foundation for our leadership development program. The goal of the Academy is to develop executive-level skills in today's managers, to prepare them for tomorrow's needs. Included in the academy is instilling the culture of public service and the HHSA culture in our management team.

5. What steps are you taking to ensure a smooth transition to a new Department of Public Health, especially to avoid any disruption in service delivery?

The California Health and Human Services Agency is playing a critical role in the implementation of SB 162 and the creation of the California Department of Public Health (CDPH). The Agency is overseeing the California Department of Health Services' planning and implementation activities to ensure a smooth transition and providing support to the department with state control agencies and external partners.

The Agency's efforts have thus far focused on the following aspects of the reorganization:

- The number and type of key executive and administrative positions identified as necessary to implement the reorganization effectively, and the programmatic sources for these positions.
- Ensuring that the department is achieving overall budget neutrality; reviewing the impact on special funds within the department; and evaluating how the department is minimizing the impact of internal cost shifts on services to the public health and health care service delivery community.
- The processes and timelines for assigning staff to the new departments and for recruiting and hiring highly qualified individuals to fill the key executive and administrative positions.
- Ensuring the timely composition of the Public Health Advisory Committee.
- Evaluating the change management planning necessary for the departments to adequately respond to issues of concern from its employees and from external stakeholders.

6. How will the new Department of Public Health coordinate with the state's Environmental Protection Agency to address environmental health concerns?

Currently, the Department of Health Services has an excellent working relationship with the California Environmental Protection Agency (Cal/EPA). The creation of the Department of Public Health (DPH) does not bring with it some of the complexities of merging departments, and does not create new programs, so no significant change in how DPH interacts with Cal/EPA is envisioned. The Department of Public Health and its environmental health and public health programs will continue to support Cal/EPA's regulatory functions and to collaborate on emerging issues related to air quality, water quality, and toxics contamination. Nonetheless, the advent of the Department of Public Health provides an opportunity for the Agency as well as the State Public Health Officer to evaluate how DPH interacts with Cal/EPA and how those interactions can be improved to strengthen the protection of public health and the environment. DPH will coordinate with Cal/EPA programs on the following:

- Monitor environmental and health status to identify community environmental health problems.
- Investigate environmental health problems and health hazards in the community.
- Inform and educate the public about environmental health issues.
- Establish community partnerships to identify and solve environmental health problems.
- Develop plans that support individual and community environmental health effort.
- Enforce laws and regulations that protect health and ensure safety.

7. Please describe the steps being taken to implement the newly established biomonitoring program.

The California Health & Human Services Agency has been working with the California Environmental Protection Agency to coordinate resource requests and workload projections to implement the provisions of SB 1379 (Perata). More specifically, the two Agencies have been working closely with their respective departments charged with the

implementation of the legislation's provisions – the California Department of Health Services (CDHS), the Office of Environmental Health Hazard Assessment (OEHHA), and the Department of Toxic Substances Control (DTSC). Planning for the transition of the Department of Health Services to the Department of Public Health and the Department of Health Care Services is being carefully evaluated by Agency to ensure that there is no negative impact on the ramp-up of this program. This multi-departmental effort will:

- Provide data allowing state scientists and regulators to evaluate existing environmental programs;
- Identify and prioritize emerging environmental health issues; and
- Provide a solid scientific basis for future policy and budgetary decisions.

The program design is important because it will include both biomonitoring and an assessment of potential routes of exposure. Over the long-term, this will help gauge the efficacy of exposure reduction efforts by both the Health & Human Services Agency as well as those of the Cal-EPA. Some examples of coordination will include:

- CDHS and DTSC laboratories will analyze samples for specific environmental contaminants;
- Discussion and presentation of state efforts with the nine-member external Scientific Guidance Panel;
- Development of program protocols and guidelines to be consistent of those with the national biomonitoring program, including sampling strategy, consent forms, fieldwork and data entry;
- Development and coordination of the creation of an electronic database for use by CDHS, OEHHA and DTSC staff; and
- Public outreach and education efforts.

We anticipate requesting resources in the budget year to support more specific planning efforts critical to ensuring California operates an effective, nation-leading biomonitoring program.

8. Based on the experiences thus far with the state's emergency prescription drug program, do you believe there is a need to extend this program or to make changes in the program?

The State's emergency prescription drug program met the critical needs of Californians who are dually eligible for Medi-Cal and Medicare when implementation of the federal Medicare prescription drug program faltered. During the first 30 days of its operation the program covered an average of 6,834 claims per day. Since, use of this program has declined dramatically to an average of 32 claims per day during November 2006.

On January 1, 2007, approximately 330,000, or one third of California's dual eligible individuals will be moved to a plan that is different than the one in which they are currently enrolled. CMS has promoted the fact that this transition will be seamless and, because the plans these people are being moved to are offered by the same company that offered their 2006 plans, we are cautiously optimistic that the transition will not disrupt services.

While it is likely that some "dual eligibles" may need assistance in obtaining their drugs the first few weeks of 2007, it is premature to extend or make changes to the program at this time. The existing emergency drug benefit, which is in place through January 31,

2007, provides a safety net in the event there are significant problems in January. Extending or modifying California's emergency program prior to January 1 only relieves pressure on CMS to remedy problems with its systems.

We will continue to monitor the federal program, assess the severity of any problems in the first two weeks of January and, if needed, recommend extension or modifications to the Emergency Drug Benefit program at that time.

9. What do you see as the major challenges in implementing the discount program, and what steps are you taking to address these challenges?

I believe the discount program will face the following major challenges:

- **Provider network** – Establishing a viable provider network is a significant hurdle that is critical to the success of the program. Issues that will impact the provider network include the rate of reimbursement, as providers have indicated they may not participate if the rate is less than that generally available through Medi-Cal. The Department is currently developing a provider contract and will begin a series of group and individual meetings with providers in January 2007 in an effort to ensure a viable network is in place prior to testing the claims processing system. The lack of viable candidates to fill pharmacist positions will also be a major challenge.
- **Manufacturer contracting** – The Department has already made individual contact with several manufacturers who have either committed to full product line contracts or have indicated their support for the program. In addition, we are working on draft contracts for single source drug rebates and guaranteed acquisition cost for generic drugs. The Department has met with and will continue to meet with manufacturers in groups and on an individual basis in order to secure as many contractual commitments it can in the first quarter of 2007.
- **Recipient enrollment** – It is difficult to predict how many individuals will sign up for the program and how many will actually obtain prescriptions. Though the program will make it easy to enroll through either a pharmacy, physician office, via telephone or over the Internet, reaching out to the uninsured to garner interest will be a significant hurdle. Without resources for outreach, the program would have to rely upon pharmacists and physicians to promote enrollment. The Department, in its negotiations with manufacturers, will attempt to secure separate funding for outreach and will also ask the manufacturers to provide non-branded information to their sales force for dissemination to provider offices and stores. Other non-profit organizations may also be interested in funding outreach.
- **Implementation schedule** – Completing design, development and implementation (DD&I) of systems to process claims, provider and recipient enrollment, drug rebate collection and provider reimbursements in a 6 month timeframe will require the Department of Health Services to leverage system knowledge from its Medi-Cal experience. A request for information will be sent out to determine which vendors can perform the DD&I in the given timeframe. We anticipate having the program up and running in early 2008.

**10. What are the findings of the agency's evaluation of the 2003 Olmstead Plan?
Please identify any revisions to the plan that the agency believes are needed.**

As stated in Executive Order S-18-04, the Governor is committed to adopting and adhering to policies and practices that make it possible for seniors and persons with disabilities to remain in their communities and avoid unnecessary institutionalization. The previous Administration and stakeholders undertook an effort to develop the May 2003 Olmstead Plan. The Plan presents a number of important issues and recommendations, all of which are focused on developing state policies to provide services to people with disabilities in the most integrated setting. However, the Plan does not prioritize policy recommendations for action in the short or long-term, nor does it provide an analysis of the related problems, barriers and proposed policy solutions.

Informed by the input and guidance of the Olmstead Advisory Committee and our departments, we have focused on near-term policy priorities. Specifically, working with the Olmstead Advisory Committee, we have sought to define the priorities that are imbedded within the Plan, and have asked that the Committee look beyond the plan for additional priorities. In addition, a substantial component of the state's efforts to implement Olmstead entails monitoring implementation of current initiatives and programs, and ensuring that the state's laws and regulations meet the intent of Olmstead. We continue to engage the Olmstead Advisory Committee on the implementation of current programs and initiatives, and their feedback and insight has helped address a number of Olmstead-related issues.

Finally, we have sought the committee's input as we work through various Olmstead-related budget or legislative items. Given the cross-cutting nature of Olmstead, the Committee developed an "Olmstead Policy Filter", which is used by all HHSA departments to ensure that Olmstead issues are among the factors considered when evaluating any policy, legislative, regulatory, or budgetary change.

11. Please provide an update on what steps the agency has taken to implement policies that are consistent with the Olmstead court decision.

California leveraged federal and other resources to maintain critical services and further Olmstead implementation. Following is a summary of major budget, legislative and other accomplishments that have strengthened and moved forward on Olmstead implementation:

Leveraging Federal Resources:

Real Choice Systems Transformation Grants: HHSA applied for and received a \$3 million Real Choice Systems Transformation Grant in 2006. The Olmstead Advisory Committee provided valuable input in the shaping of this application that is designed to transform California's long-term care system and increase community capacity for our seniors and persons with disabilities.

Money Follows the Person Demonstration: The state applied for a Money Follows the Person Demonstration this November. This demonstration program will allow individuals in nursing homes to voluntarily move into a community setting and still receive the same amount of funding for services. The Olmstead Committee's consistent advocacy regarding the need for a Money Follows the Person program in California contributed to

the state's decision to apply for the demonstration program. The Olmstead Committee will be a critical component throughout the tenure of the project (assuming CMS grants an award).

Independence Plus IHSS Waiver: In 2004, the state secured a federal waiver that allows almost 66,000 seniors and persons with disabilities to receive services in their homes and avoid unnecessary institutionalization by allowing federal funds to support care given by loved ones. The waiver is expected to save \$1.7 billion over five years.

Working together, the Governor and Legislature provided much needed support to our state's efforts to promote the ability of seniors and persons with disabilities to live the most integrated community setting possible. Specifically, budget investments will expand critical social and health care management for frail elderly clients who are at risk of placement in a nursing facility served by the by augmenting the Multipurpose Senior Service Program (MSSP) program, provided increases in SSI/SSP grants, expanded support for Community-Based Services for People with Developmental Disabilities, enhanced employment services for persons with disabilities, increased funding for the Program for All Inclusive Care for the Elderly (PACE) which is a model of acute and long term care integration, and expanded Alzheimer's Research and Treatment. In addition, we are moving forward on implementation of important reforms including changes to the Adult Day Health Care Services program to help the state maintain federal funding, improvements to California's conservatorship system, and efforts to expand options and choices of persons with developmental disabilities in determining their daily activities.

12. What steps have the agency and the Department of Mental Health taken to address the staffing problems behind the delayed availability of beds at Coalinga State Hospital? What additional steps will be necessary if the staffing difficulties continue?

The Department of Mental Health (DMH) faces two main challenges in recruiting and retaining staff at Coalinga State Hospital (CSH). The first is an overall shortage of clinical staff, such as psychiatrists, nurses, and pharmacists. The state hospitals must compete with higher paying local public and private hospitals for staff. The second is the pay differentials between clinical staff employed by the California Department of Corrections and Rehabilitation (CDCR) and the same classifications of staff employed by DMH in CSH and the other state hospitals. The pay differentials have been the result of various court orders resulting from the *Plata v. Schwarzenegger* and *Coleman v. Schwarzenegger* cases dealing with medical and psychiatric care, respectively, of inmates in CDCR prisons.

DMH is currently engaged in increasingly aggressive recruitment efforts to address the delays in hiring staff at Coalinga State Hospital (CSH). In 2006, DMH has attended 225 recruitment fairs, conferences, and professional meetings (115 in-state and 10 out-of-state) to educate potential employees about the work done and job opportunities available at CSH. DMH has had particular success in recruiting staff from other states and plans to focus more efforts on attending recruitment events outside of California. In addition, DMH distributed 240 advertisements, and internet and mass mailings describing job opportunities at CSH. Interest in CSH is developing because it is one of the largest mental health hospitals in the nation and it serves a primary patient population of sexually violent predators.

CSH is also putting a greater amount of recruitment emphasis on building relationships with California universities and colleges. This includes participating at campus job fairs, making classroom presentations, contacting career counselors, and promoting class tours. The CSH clinical, medical, and nursing programs are finalizing the establishment of internship programs at CSH with the University of California, Irvine and the University of Phoenix (Fresno campus). Additional affiliations with California State University, Fresno and Alliant University of Fresno are being pursued. In order to make CSH employment more appealing to recently trained clinicians, CSH is in the final steps of gaining designation as a medically underserved area, which will result in CSH being included as an approved site for graduate level clinical staff to apply for federal student loan forgiveness assistance.

The Agency assisted DMH in securing salary increases for physician, surgeon, registered nurses, and nurse practitioners at CSH and the other state hospitals in early 2006. However, more recent orders for salary increases for CDCR staff from the *Plata* and *Coleman* courts have widened the pay margin between the state prisons and state hospitals. The Agency continues to coordinate the efforts and information gathering of our affected departments (DMH, the Department of Developmental Services, and the Department of Health Services) and to work with the Department of Personnel Administration and the Department of Finance to identify and develop recruitment and retention tools in addition to salary increases.

DMH remains on target in the current year with their recruitment efforts and in bringing beds on-line, as provided in the 2006-07 Budget Act. The passage of SB1128 and Jessica's Law will have an immediate and direct impact on the number of sexually violent predators under the jurisdiction of DMH. It is vitally important for public safety that CSH be fully staffed and able to serve this population and we are fully dedicated to this endeavor. Should the staffing difficulties at CSH continue, the Agency will work with DMH and the Administration to determine our options for increasing staff, including the possibility of contracting for positions critical to maintaining licensure and operations.

13. Does the agency have a role in coordinating with the Department of Corrections and Rehabilitation to respond to the federal court's orders in the *Coleman* case? If so, please describe this role.

The Health and Human Services Agency (Agency) has for some time coordinated work with the Department of Corrections and Rehabilitation (CDCR) in the *Coleman* case. Since the *Coleman* plaintiffs are inmates who have mental health needs, the Agency's Department of Mental Health (DMH) has been involved in numerous aspects of providing mental health services to prisoners, including providing staffing in mental health units of prisons within the CDCR system. To facilitate more coordination between the agencies, Agency and CDCR have conducted *Coleman* executive team meetings to address common issues. Agency is also involved in a weekly meeting with the Governor's Office to coordinate with other state agencies, including CDCR, issues that are pending in the *Coleman* case. In 2006, the *Coleman* judge added the Director of the DMH as a named defendant, requiring DMH to be directly responsive to the court. DMH's new role as a named defendant demonstrates the integral role that DMH plays in resolving the *Coleman* lawsuit and the need to continue coordinated efforts with CDCR to respond to *Coleman* issues.

14. In your opinion, are the disaster preparedness plans developed by the departments within your jurisdiction adequate?

Disaster preparedness is a continual process. As was so starkly revealed by the tragedies of 9-11 and Hurricane Katrina, it is government's full-time responsibility to continually prepare. Hazards change and we are obligated to consistently work to identify new threats. Plans for any agency or entity are only as effective as the people who develop and implement them make them. A perfect plan left on the shelf in an emergency is of absolutely no value. Since my arrival at HHSA, we have continually increased our focus on the need for adequate plans and for pushing to find the weaknesses in our current plans. In mid-2006, we reconstituted the Agency Disaster Coordinating Council to focus on how HHSA provides people-care aspects of disaster response, and to provide guidance and input to the Agency Secretary with respect to emergency operations of the Agency. This council is made up of the Directors and Chief Deputies of our Departments. In June 2006, under the guidance of the Office of Homeland Security, Agency held a tabletop training exercise simulating a major seismic event in the Bay Area. All Agency senior staff participated and all CHHS directorate personnel and disaster coordinators participated in this exercise. The purpose of the exercise was to review existing disaster preparedness approaches, plans, and policies; identify and clarify gaps and challenges; and capture priority areas for future efforts. Our Departments are looking at the lessons learned from that activity and making appropriate adjustments in the plans. We will conduct another Agency-wide table top exercise in early 2007.

In September 2006, CHHS departments submitted drafts of their Continuity of Operations/Continuity of Government (COOP/COG) plans to the Agency for review and comment, prior to their submission to the Governor's Office of Emergency Services (OES). Agency reviewed all plans and provided substantive direction and guidance to all 12 CHHS departments on plan development. The HHSA plans are currently under review by the OES. The Agency will hold annual tabletop exercises to test continuity of government operations.

In November 2006, CHHS departments and Agency participated in the annual Golden Guardian exercise.

15. For those departments that contract with, license or oversee local entities that have the responsibility to maintain community-based disaster plans, how will you ensure that the departments monitor the adequacy of those regional or local plans?

Generally, our departments have very limited authority with respect to regional and local plan approval. Nonetheless, we recognize that there is a significant need for us to encourage our local partners to continually improve their plans.

Department of Developmental Services

Each regional center, by contract requirement with DDS, has a disaster plan. Upon request from DDS, the regional centers provide copies of their disaster plans to DDS. As we have focused additional attention on the responsibilities of planning for disasters, it became apparent that DDS does not know the completeness or consistency of each regional center's plan. To address that, DDS has engaged the services of a consultant to review and evaluate each regional center's plan against the national plan review indicators. The consultant is expected to report findings to DDS in February 2007. This

report will assess the adequacy of the regional centers' plans and where additional work needs to be done or resources invested. DDS will then work with each regional center to ensure that their plans are adequate and appropriate.

DDS has also formed an Emergency Preparedness Advisory Committee to advise and assist them in developing their own disaster plan. This committee is comprised of state, legislative and regional staff, parents, consumers, and stakeholder organizations representing consumers, parents and providers. Agency is also participating on the committee. The committee had its first meeting in October 2006, and is waiting for the outcome of the consultant's review to guide next steps.

Regional centers do not verify that the community care facilities (CCF) or intermediate care facilities (ICF) into which they place consumers have disaster plans. CCFs and ICFs are required to have disaster plans in order to be licensed by the Department of Social Services and the Department of Health Services, respectively. The disaster plans are reviewed and verified by those departments during the licensing and related monitoring processes.

The advantage that regional centers and the developmental system in general have with respect to caring for their clients is that regional centers know where all of their consumers are. Regional centers coordinate placement and/or services for their consumers and, as a result, have information about where each resides. This enables a regional center to ensure that every consumer in the area is accounted for in a disaster.

Department of Mental Health

Each county is responsible for incorporating their county mental health departments into the broader county disaster plan. To date, DMH has not required county mental health departments to prepare or submit separate disaster plans. However, each county mental health department has an appointed disaster coordinator and some do have separate disaster plans. DMH is currently working with DHS on a new policy to use federal HRSA grant funds to develop a plan that ensures that county mental health departments have plans in place and are properly trained. One part of this policy would be the establishment of a committee to develop core competencies for mental health disaster workers to ensure that they can implement county plans.

DMH also has an "All Hazards Response Plan for Assistance to Counties." This plan is largely procedural and provides a framework for responding to county requests for aid. The specific duties of DMH according to this response plan include:

- Providing oversight in organizing mental health services by working with county mental health departments to support local disaster response efforts and deliver crisis counseling services through FEMA funding;
- Assisting counties in preparedness activities (will hold Disaster Coordinator meetings in regional areas either quarterly or semi-annually);
- Identifying who DMH may interact with in a disaster at every level of government;
- Providing technical assistance to counties;
- Conducting a needs assessment during presidentially declared disasters to request FEMA funding;
- Providing assistance to counties in service delivery data tracking;
- Applying for federal grants;
- Developing and disseminating pertinent information;
- Identifying guidelines for activating the plan; and

Response to Senate Rules Questions
Ann Boynton, Undersecretary,
Health and Human Services

- Providing procedures for monitoring event, making notifications, mobilizing the state disaster response team, assigning duties, conducting response and recovery operations, and deactivating the plan.

Department of Health Services

Licensed health care facilities (including acute hospitals and long term care facilities) are subject to CDHS Licensing and Certification's (L&C's) enforcement of both the Code of Federal Regulations (CFR) requirements and the California Code of Regulations Title 22 (22 CCR) requirements for disaster planning and response.

In enforcing the CFR and 22 CCR, L&C personnel work at the district office (field) level and the headquarters level and conduct the following activities:

- Conduct surveys of facilities following specified protocols:
 - For general acute care hospitals surveys are conducted every three years in conjunction with Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and Institute for Medical Quality (IMQ) survey personnel;
 - For skilled nursing facilities surveys are conducted every 9 to 15 months;
 - For intermediate care facilities surveys are conducted every 12 months;
- Review facility disaster plans in response to any complaint related to emergencies/disasters;
- Take an active role during an emergency to call all facilities by telephone to determine the safety of the facility in relation to the emergency;
- Oversee the evacuation of a facility and orderly transfer of residents/patients through on-site presence as needed;
- Inspect facilities with the Office of Statewide Health and Planning Development following a disaster, as needed; and
- Provide training/education to facilities on emergency preparedness through public forums;

At the county level, L&C influences medical and health care delivery planning and decision making with regard to health care facilities and their involvement with public health officials and the Local Emergency Medical Services Authority (LEMSA). L&C's contribution to planning is to assure patient safety concerns are addressed as required by the CFR and 22 CCR.

Finally, we are committed to the concept that because response to any emergency begins locally, it is critical that local jurisdictions are aware of and acutely focused on the need for continual improvement and adjustment of their plans. As such, CDHS regularly coordinates with local health departments on a wide variety of emergency planning related issues. CDHS meets monthly with CCLHO and CHEAC leadership to discuss public health emergency preparedness activities. In addition, CDHS works with local health departments on the following activities:

- In December 2005, the "Health Officer Practice Guide for Communicable Disease Control in California" was released.
- Conducting assessments with local health departments to objectively review their local emergency response capacity through a standardized assessment instrument.
- A statewide Best Practices Summit for Risk Communication was held in September 2006 to provide technical assistance and statewide coordination to

California's Public Information Officers and risk communication staff to help build their capacity to communicate effectively with the public before, during, and after a crisis event.

- Developing a risk communication tool kit for use by local health departments. The federal Centers for Disease Control and Prevention has recognized the tool kit as a model for the nation.

Department of Social Services

Community Care Licensing. The Community Care Licensing program directly licenses and monitors approximately 80,000 community care facilities, and provides oversight, direction, and training to counties that license approximately 11,000 additional facilities.

Licensees of all community care facility categories are required to develop and maintain a current emergency disaster plan. Among other things, the plan must include means of exiting; transportation arrangements; relocation sites, including plans for sheltering in place; arrangements for supervision of residents/clients during and after relocation; and emergency names and telephone numbers for such local entities as the fire department, the police/sheriff, area hospitals, etc. In developing the plan, licensees are expected to obtain guidance from local disaster-planning authorities. The plan must be posted prominently in the facility, facility staff and clients/residents must be thoroughly trained in the plan, and regular disaster drills must be conducted as appropriate. During regular site visits, licensing field staff review facility emergency disaster plans to ensure that they comply with regulatory requirements, incorporate "best practices" in the disaster-planning field, and adequately ensure the health and safety of everyone in the facility.

To insure these requirements are met, this Administration has undertaken the rebuilding of our essential functions to insure appropriate oversight of licensed facilities. These facilities include child day care, children's residential, and elderly residential and day support facilities, and serve approximately 1.4 million clients statewide. Last year an additional 80 positions and \$6.2 million were added to increase direct supervision of facilities.

Child Welfare Services and Foster Care. As noted above, community care licensed facilities in California are required to follow a written disaster and mass casualty plan of action in the event of a disaster. Licensed facilities include foster homes and group homes. Once the catastrophic event is over, these facilities must also ensure that relocation was completed as planned and that the appropriate local agencies are contacted. In keeping with the improvement efforts already underway, the state and counties are developing a statewide child welfare disaster preparedness plan. This plan will build on California's comprehensive emergency preparedness plan and provide targeted safeguards to protect foster care children and youth in the event of a catastrophic disaster.

California counties have first response emergency plans in place to ensure the safety of vulnerable children during natural and other disasters. The adequacy of the local link between first response plans and child welfare agency operations has been the subject of discussion at the national, state and local levels in California since the Gulf States and Hurricane Katrina disasters of 2005. Focused planning efforts in California have focused on the Interstate Compact and the development of revised protocols to locate and track children during disasters. During 2007, CDSS will continue to work with counties to ensure appropriate implementation of those ICPC procedures. The federal Children's Bureau was asked to respond to the variance in disaster planning efforts among states. The federal government has hired a contractor to assist

with the developing guidance and standards for states. We look forward to participating fully in the federal efforts to develop standards, and in preparation for the effort the DSS is working with counties to review existing plans and identify best practices.

To date, California's system of local response has worked well for children's services. However, the unfortunate events of Hurricanes Katrina and Rita, as well as our own heat wave, remind us that we can always improve our preparedness and we are taking the necessary steps to do so. Building on extensive state and local emergency preparedness and response efforts, the DSS has initiated activities to protect children and youth in foster care in the event of a disaster.

Below are key activities already underway:

- The Office of Emergency Services, the California Welfare Director's Association, the California Department of Health Services and the California Department of Social Services are collaborating to develop a statewide Child Welfare Disaster plan.
- Counties, in consultation with DSS, have been working to identify, review and strengthen existing local Child Welfare Disaster plans for children placed in the state.
- DSS has been working with counties to develop plans to assist foster children from California who are placed in other states to ensure we are able to keep track of children if and when disasters occur in the states where they are placed.

In-Home Supportive Services and Adult Protective Services. This issue became a focus during the heat wave of 2006 when it became necessary to take steps to insure the safety of vulnerable older and disabled Californians. The DSS was able to work with counties to use the CMIPS Disaster Preparedness Report, which identifies specialized needs (e.g. oxygen, language services) for IHSS clients during emergencies to help facilitate outreach efforts. The Administration also worked with counties to account for the additional activities and unsure necessary resources were available.

County Adult Protective Services also had a process for contacting all APS cases during emergencies and utilizing county services that was utilized during the recent summer heat wave activities. Adult Programs Branch staff contact and follow-up as appropriate with counties to ensure these actions have occurred.

Additionally, the DSS and the CWDA Long-Term Care Committee are working together to collect information from counties on Disaster Preparedness plans and best practices. A number of counties already had a Disaster/Emergency Plan in place to ensure the safety of these clients during a potential disaster. The DSS Adult Programs Branch is in the process of reviewing existing county plans. Based on this review, the DSS will distribute model plans and best practices with the expectation that each county will develop a Disaster/Emergency Plan. Based on the collaborative effort with CWDA, several counties have already submitted copies of their Emergency Plans to CDSS. Existing county plans include the following:

- Prioritizing cases and identifying those who are most vulnerable.
- Developing a Disaster Preparedness Assessment Profile.
- Developing plans to contact clients to check on their well-being during a disaster.
- Ensuring clients have a relative, friend or provider willing and available to help during an emergency.
- Assisting clients in preparing a safety back-up plan.
- Developing an Emergency Plan form for clients to utilize.

[The page contains extremely faint, illegible text, likely bleed-through from the reverse side of the document. The text is organized into several paragraphs and possibly a list or table, but the content cannot be discerned.]

CALIFORNIA LEGISLATURE

MEMBERS

JIM BATTIN
VICE-CHAIR

ROY ASHBURN

DEBRA BOWEN

GILBERT CEDILLO



GREGORY SCHMIDT
SECRETARY OF THE SENATE

NETTIE SABELHAUS
APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

DON PERATA
CHAIRMAN

November 27, 2006

Darlene Ayers-Johnson

Dear Ms. Ayers-Johnson:

The Senate Rules Committee will conduct a confirmation hearing on your appointment as a member of the Commission on the Status of Women on Wednesday, January 24, 2007. You are not required to appear.

Following are questions we would like you to address in writing prior to the hearing. Please have your responses in our office by December 13th. If you prefer, you may fax your responses to (916) 445-0596.

Goals

1. *Please provide a brief statement of goals you hope to accomplish while serving on the Commission on the Status of Women.*

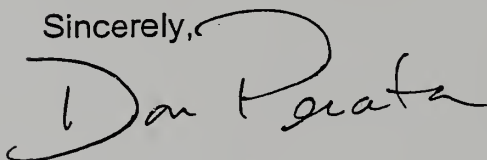
Public Forums

The commission recently held a series of public forums in Los Angeles, Fresno, and Sacramento to learn what issues women and girls are facing and what role the commission can play in addressing these issues. Individuals and organizations were asked to bring their comments and recommendations to the commission. After these forums, the commission prepared a document summarizing all the issues and recommendations raised.

2. *Please describe the issues and recommendations raised at these public hearings that you think are most important for the commission to address. Is the commission planning on pursuing the recommendations you have identified? If yes, please explain how they will be pursued.*

Thank you for taking the time to answer these questions. Please direct your responses to Nettie Sabelhaus, Rules Committee Appointments Director, Room 420, State Capitol, Sacramento, CA 95814.

Sincerely,

A handwritten signature in dark ink, reading "Don Perata". The signature is fluid and cursive, with a large, stylized "D" at the beginning.

DON PERATA

DP:KS:dc

December 6, 2006

Ms. Nettie Sabelhaus, Appointments Director
Senate Rules Committee, California Legislature
State Capital Building, Room 420
Sacramento, CA 95814-4900

Dear Ms. Sabelhaus:

I have been asked by Senator Perata to respond briefly in writing to two (2) questions in reference to my upcoming Senate confirmation hearing, which is scheduled on Wednesday, January 24th 2007. My responses are listed below:

1) Goals – Please provide a brief statement of goals you hope to accomplish while serving on the Commission on the Status of Women.

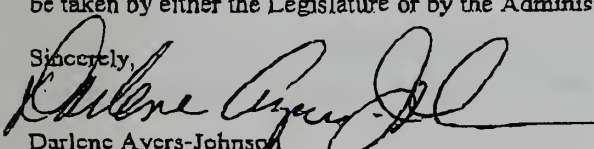
Simply put, while serving on the Commission on the Status of Women, I will endeavor to help examine information received from the public on Women's issues. My hope is that the outcome will result in the development of public policy that will enhance the quality of life for women in the State of California. I will attempt to help provide input for solutions that will assist all women and girls in this state.

2) Public Forums – Please describe the issues and recommendations raised at these Public hearings that you think are most important for the commission to address. Is the commission planning on pursuing the recommendations you have identified? If yes, please explain how they will be pursued.

The recent public forum hearings held in Los Angeles, Fresno and Sacramento gave the Commission members an opportunity to hear and explore issues that women and girls are facing around our state. Those issues were presented with written/oral testimony and were very broad. Issues included: Caregiver Issues/Aging and Long Term Care, Child Care, Equality, Employment, Family Law, Health, Mental Health, Reproductive Health, Teen Pregnancy & Parenting, violence Against Women, Sexually Exploited Minors, Teen Dating Violence, Welfare, Women in Prison, Girls and the Juvenile Justice System, Women Veterans.

Although many of the issues raised at the public hearing were very important; however, an attempt to address all of these issues is almost impossible. Nevertheless, after the forums and public testimony ended, the Commission staff prepared a document, which summarized all of the issues and recommendation raised for careful examination and review by the Commission members. That proposed final list of recommendations was discussed by the Commission members during a recent telephone meeting. That process outcome resulted in a shorter list. At this point, the Commission and staff agreed that the balance of the recommendations will be refined to be more specific for action to be taken by either the Legislature or by the Administration.

Sincerely,


Darlene Ayers-Johnson

Senate Rules Committee

DEC 06 2006

Appointments

CALIFORNIA LEGISLATURE

MEMBERS

JIM BATTIN
VICE-CHAIR

ROY ASHBURN

DEBRA BOWEN

GILBERT CEDILLO



GREGORY SCHMIDT
SECRETARY OF THE SENATE

NETTIE SABELHAUS
APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

DON PERATA
CHAIRMAN

November 27, 2006

Lindy Dekoven

Dear Ms. Dekoven:

The Senate Rules Committee will conduct a confirmation hearing on your appointment as a member of the Commission on the Status of Women on Wednesday, January 24, 2007. You are not required to appear.

Following are questions we would like you to address in writing prior to the hearing. Please have your responses in our office by December 13th. If you prefer, you may fax your responses to (916) 445-0596.

Goals

1. *Please provide a brief statement of goals you hope to accomplish while serving on the Commission on the Status of Women.*


Public Forums

The commission recently held a series of public forums in Los Angeles, Fresno, and Sacramento to learn what issues women and girls are facing and what role the commission can play in addressing these issues. Individuals and organizations were asked to bring their comments and recommendations to the commission. After these forums, the commission prepared a document summarizing all the issues and recommendations raised.

2. *Please describe the issues and recommendations raised at these public hearings that you think are most important for the commission to address. Is the commission planning on pursuing the recommendations you have identified? If yes, please explain how they will be pursued.*

Thank you for taking the time to answer these questions. Please direct your responses to Nettie Sabelhaus, Rules Committee Appointments Director, Room 420, State Capitol, Sacramento, CA 95814.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Perata". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

DON PERATA

DP:KS:dc

Senate Rules Committee Questions and Responses

By

Lindy DeKoven

California Commission on the Status of Women

Question 1: Please provide a brief statement of goals you hope to accomplish while serving on the Commission on the Status of Women.

Through my service these last few months on the commission, I have become better acquainted with – and gained a better understanding of – issues all women and girls in the state of California face. As a result, if I am confirmed, I hope to participate in developing ways for government and the private sector to better serve their needs.

One important goal is to open up an ongoing dialogue between the women and girls of the state and the state legislature through the commission. It is essential that we raise the profile of the commission, so that all women and girls know the commission exists to help them and is the vehicle through which all their voices can be heard. I am proud that the public hearings we held earlier this year around the state came out of a suggestion I made at my first women's commission meeting. Those hearings were a great beginning, but our work is just getting started.

And once those voices are heard, it then will be the commission's responsibility to make sure the issues raised are brought to the attention of the members of the assembly and the state senate.

To that end, it is essential the commission gain the respect of the lawmakers so the two can work productively together. We need to put a particularly strong emphasis on the commission's relationship with women legislators, many of whom won their seats with the support of women's organizations throughout the state.

I hope to play a role in improving the effectiveness of the commission so legislators will not only attend our meetings but promote our work and be more invested in our agenda and goals. With the advice and support of elected officials, the commissioners can prioritize a realistic agenda for women and make great strides forward.

Our most important work, and my greatest goal, is to provide hope and a voice for those who feel left behind, the disenfranchised of society who believe government can't and won't do anything for them. The Commission on the Status of Women should pay special attention to them and let them know the state of California cares about them, listens to them and works for them.

Senate Rules Committee

DEC 13 2006

Appointments

Senate Rules Committee Questions and Responses

By Lindy DeKoven

California Commission on the Status of Women

Page 2.

Question 2: Please describe the issues and recommendations raised at these public hearings that you think are most important for the commission to address. Is the commission planning on pursuing the recommendations you have identified? If yes, please explain how they will be pursued.

There were a number of issues presented at the public hearings. The witnesses focused mostly on issues of family, education, child care, and affordable health care.

There were many comments about health care services and the widespread desire to establish a single payer universal health care system that would provide access to comprehensive health care for all California residents.

However, there were many other issues including, establishing a statewide heart disease prevention and services program for women; strengthening requirements regarding access to birth control and emergency contraception; providing medical or other low cost coverage for over the counter emergency contraception for low income women; prohibiting employment discrimination against an individual because she is a victim of domestic violence, sexual assault or stalking; providing specialized services and education, case management and intervention and prevention program for sexually exploited minors; funding gender response programs for girls that are an alternative to custody in the juvenile justice system; increasing funding of quality child care for children in low income families; and expanding the fair employment and housing act to include prohibition on employment discrimination based on family status and care giving responsibilities.

We heard these issues and others, but I believe the Commission can be most effective when it develops a consensus on its recommendations and makes those recommendations as a body. Our strength is in working together to do what's best for the women and girls of California. To that end, after our hearings we agreed to develop a comprehensive report underscoring the particular issues mentioned above, which we will present as priority legislative recommendations. We chose to consider other issues as either administrative recommendations or study recommendations. I am cognizant of the fact that I am appointed, and not elected, and that the commission's authority will come from speaking with one voice on behalf of women and girls about an issue, not with many voices.

I appreciate your time and consideration and would be greatly honored to continue serving the people of California as a member of the California Commission on the Status of Women. Thank you.

CALIFORNIA LEGISLATURE

MEMBERS

JIM BATTIN
VICE-CHAIR

ROY ASHBURN

DEBRA BOWEN

GILBERT CEDILLO



GREGORY SCHMIDT
SECRETARY OF THE SENATE
NETTIE SABELHAUS
APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

DON PERATA
CHAIRMAN

November 27, 2006

Elaine Suranie

Dear Ms. Suranie:

The Senate Rules Committee will conduct a confirmation hearing on your appointment as a member of the Commission on the Status of Women on Wednesday, January 24, 2007. You are not required to appear.

Following are questions we would like you to address in writing prior to the hearing. Please have your responses in our office by December 13th. If you prefer, you may fax your responses to (916) 445-0596.

Goals

1. *Please provide a brief statement of goals you hope to accomplish while serving on the Commission on the Status of Women.*

Public Forums

The commission recently held a series of public forums in Los Angeles, Fresno, and Sacramento to learn what issues women and girls are facing and what role the commission can play in addressing these issues. Individuals and organizations were asked to bring their comments and recommendations to the commission. After these forums, the commission prepared a document summarizing all the issues and recommendations raised.

2. *Please describe the issues and recommendations raised at these public hearings that you think are most important for the commission to address. Is the commission planning on pursuing the recommendations you have identified? If yes, please explain how they will be pursued.*

Thank you for taking the time to answer these questions. Please direct your responses to Nettie Sabelhaus, Rules Committee Appointments Director, Room 420, State Capitol, Sacramento, CA 95814.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Perata", with a long horizontal flourish extending to the right.

DON PERATA

DP:KS:dc

December 5, 2006

Nettie Sabelhaus, Appointments Director
Senate Rules Committee
State Capitol, Rm. 420
Sacramento, CA 95814-4900

Dear Nettie Sabelhaus,

Thank you for the opportunity to talk about goals and to comment on the important issues raised during the recent Woman's Commission hearings.

I came into the commission enthused to work on women's healthcare issues. During the hearings, I discovered many of those and much more. Over the last three months, I have come to believe that education, infrastructure (affordable housing, schools, clinics, teen centers, transportation...) and attention to the needs of the middle class is what will make the commission an effective advocate on behalf of the women and girls of this state. Women's concerns are, by their nature, family concerns - 50 percent of households are single parent homes run by a working woman. It has become quite clear to me that women - families - in this state, need help.

The commission's vision statement is, "No Woman Forgotten." Given the scope and depth of the needs that we encountered, this will be no small devotion. The marginalized need basics to give them opportunities to improve and the middle class need effective systems and tools to prevent them from becoming the marginalized.

We heard testimony from over 120 women and four men. The topics ranged from equal pay, domestic violence, retirement planning, teen violence, elder care, Title 9 infractions, healthcare access, birth control education, ageism, and non-traditional employment opportunities.

A few issues provoked me to immediately pursue the facts and personally advocate for them. They are:

1. Female farm workers exposed to pesticide spraying resulting in asthma attacks and hospitalization.
2. Female prisoner's being given hysterectomies without informed consent.

Senate Rules Committee

DEC 12 2006

3. The great need for spanish speaking certified childcare workers who are willing to work non-traditional hours, serving the farm worker communities and those working late night hours.

4. Female Veterans coming back from Iraq who are isolating themselves because of undiagnosed post-traumatic stress disorder and untreated effects of violent sexual assault.

In regard to the field worker's complaints, after several phone calls and emails I was able to speak with Chuck Andrews, Chief of Worker Health and Safety at the Pesticide Regulation Board. He provided me extensive information on workers rights and protections which I passed on to Mily Trevino, Executive Director of the de Cideros Campesinas, the organization representing the farm workers. He also generously agreed to be their direct contact for reporting and following up on worker issues with farmer non-compliance.

Getting workers to have the courage to come forward and use their rights seemed like a logical first step in solving their concerns. I made no recommendation to the commission at this time but will continue to follow the outcomes of this situation closely.

In regard to female prisoners being given hysterectomies without their informed consent, I was able to have several lengthy conversations with Attorney Robin Levi, Human Rights Director of Justice Now, the organization that monitors prison offenses against female prisoners. Because of my medical background I was able to help her reformulate how she questioned the women and to gather new information. It is also important to more clearly define the credentials of healthcare givers in prison and reassess the written policy and procedures they are required to follow.

The commission was very proactive in addressing many prison issues in our recent meeting, including requiring that all medical personnel in women's prisons' be state licensed and board certified in a women's health speciality. I intend to continue communication with Justice Now to follow up on the outcome of their new study.

In regard to the need for spanish speaking certified childcare workers, I have had the privilege of meeting Martha Magnia, a Child Development teacher at Fresno Community College. She saw the need in the spanish community for qualified childcare workers. The college did not support teaching classes in spanish because of anticipated negative public response. Logic dictates that children cannot wait until their parents learn to speak, read and write english in order to have safe childcare.

Magnia took it upon herself to begin teaching the 13 unit college

course in spanish around her kitchen table to four women. The next time she taught the class, twenty women showed up. The next time, thirty. After that, FCC agreed to allow her to teach the class at the college. The course is now in it's second year.

Fresno Community College is the only school that I know of that offers this course in spanish and Magnia is the only teacher. The 18 week course includes English as a Second Language, Business structure, marketing, CPR, childcare law, and childcare development. It provides the caregivers with an independent business and the community with a much needed service. They often start taking children at 4am for field workers and at 7pm for night service workers.

With such a large California population of spanish speaking women working to support their families at odd hours, there is a huge, immediate, need for safe, responsible. affordable childcare. In each city, childcare concerns were heard by the commission more than any other single issue.

My intention is to have more colleges across the state agree to teach these classes in spanish. I am happy to say that the Commission voted to support this administrative action and to add it to our 2007 agenda.

In regard to female veterans, I have had several long conversations and emails with Seanna Ierring-Jensen, Director of Veterans Affairs in the San Joaquin Valley. She has provided me with reports of what she is seeing first hand and articles concerning the state of female vets. Ironically, in the news of late, discussions on this very issue are happening all across the country.

Since being introduced to this silent, growing, problem, I strongly feel that it deserves our immediate attention. This is the first war where so many female soldiers are as close to combat as male soldiers. Women are pilots, air crews, truck drivers, engineers, communication specialists, and mechanics - female soldiers are no less exposed to the trauma of combat, multiple concussion injuries, and emotional stresses than are their male counter parts.

Unfortunately, it appears, they are less likely to be diagnosed and treated. In addition, many have experienced sexual assault and rape while serving overseas.

According to an April 15, 2004 article in the medical journal, Family Practice News, females made up 20% of new military recruits in 1998 and are expected to account for 30% of new recruits by 2010. In a national sample of 537 women veterans, 48% reported that they had experienced violent assault while they were in the military, 13%

reported being raped. In 2002, the Department of Defense reported 30% of the female veterans surveyed reported rape or attempted rape while on active duty - compared to 18% in the civilian world.

We need to recognize that some of our female soldiers coming home may need our help in ways that we have not anticipated. By tradition and past necessity, the VA is geared toward men's issues and not uniquely female ones. It's time for this to change.

The commission voted to support a plan to create transitional housing for female soldiers where they will have access to diagnostic healthcare, therapy, and time to readjust. The commission also voted to study returning female soldiers and find out more specific information about what their medical and psychological needs are.

In conclusion, it has been an honor to meet so many dynamic women across our state who work at a grassroots level to improve their lives and the lives of others in their communities. When we, who are in a position to promote legislation, say that we have a vision for California it is impossible to take that statement seriously without seeing a clear plan of action to produce tangible results for women. Affordable housing, safety, work, childcare, education, medical care - these are basic foundational needs that all other prosperity is built upon.

Thank you again for your thoughtful consideration concerning my appointment to the Commission on the Status of Women.

Sincerely,



Elaine Suranie



January 11, 2007

Don Perata
Chairman,
Senate Rules Committee

Dear Sir,

Ref your letter dated December 12, 2006, following are my goals and objectives for the year 2007.

- I am committed to promoting Marine Safety and the protection of the Marine environment in the San Francisco Bay area and the California Coastline.
- Work towards promoting low sulphur fuel burn on ocean carriers that call California ports with a view to mitigate and lower hazard emissions in California air space.
- Work with CARB and other agencies to prevent discharge of dirty water ballast from ocean carriers that may pollute our waters.
- Support and implement safety procedures for ensuring marine containers shipped by sea are properly tagged and secured.
- Ensure that the San Francisco Bar pilots and its members are the best qualified and motivated work force in the Americas.

To support these goals I would work with the IMO(UN) and local California government agencies both region and local that support both the implementation and enforcement of such standards and encourage industry wide acceptance of established safety and environmental guidelines and recommendations.

Current strategies to achieve these goals:

- aa) Board member of the Board of Pilot Commissioners for the Bay of San Francisco, Suisan and San Pablo.
- bb) Director of Marine Operations for American President Lines.
- cc) Certified Qualified Individual (QI) responsible for Oil Spill management for the Americas.
- dd) Certified Master Mariner rated for all tonnages of ocean going ships.

Regards,

A handwritten signature in black ink, appearing to read "Julio E Soares", written over a horizontal line.

Capt. Julio E Soares
Commissioner

APL
1111 Broadway, B6
Oakland, CA 94607-5500
USA

www.apl.com

Part of the **NOL Group**

12

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]

[Illegible line of text]



554-R

Additional copies of this publication may be purchased for \$7.00 per copy (includes shipping and handling) **plus current California sales tax.**

Senate Publications & Flags
1020 N Street, Room B-53
Sacramento, CA 95814
(916) 651-1538

Make checks or money orders payable to **SENATE RULES COMMITTEE.**
Credit cards not accepted.
Please include Stock Number 554-R when ordering.

HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA



STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, JANUARY 31, 2007
1:51 P.M.

DOCUMENTS DEPT

Jan 17 3
SEN. OFFICE
FLOOR 113



1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

3
4
5
6 HEARING

7
8
9
10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

13
14
15 WEDNESDAY, JANUARY 31, 2007

16 1:51 P.M.

17
18
19
20
21
22
23
24 Reported by:

25
26 Evelyn J. Mizak
27 Shorthand Reporter
28

APPEARANCES

MEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR ROY ASHBURN, Vice Chair

SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

SUSIE SWATT, Consultant to SENATOR ASHBURN

CHRIS BURNS, Consultant to SENATOR DUTTON

DAN SAVAGE, Consultant to SENATOR CEDILLO

BILL MABIE, Consultant to SENATOR PADILLA

ALSO PRESENT

PAUL R. CHABOT, Commissioner

Board of Parole Hearings, Juvenile Matters

JOSEPH D. COMPTON, Commissioner

Board of Parole Hearings, Juvenile Matters

BARBARA FERGUSON, Lieutenant

San Bernardino County Sheriff's Department

California State Sheriffs Association

HARRIET SALARNO

Crime Victims United of California

CARL McQUILLION

Legal Community

LINDA L. SHELTON, Commissioner

Board of Parole Hearings

1 MARC ERIC NORTON
2 Attorney for Life Inmates

3 DONALD MILLER
4 Legal Consultant

INDEX

	<u>Page</u>
Proceedings	1
<u>Governor's Appointees:</u>	
PAUL R. CHABOT, Commissioner	
Board of Parole Hearings, Juvenile Matters	1
Opening Statement	1
<u>Witnesses in Support:</u>	
LT. BARBARA FERGUSON	
San Bernardino County Sheriff's Department	
California State Sheriffs Association	19
HARRIET SALARNO	
Crime Victims United of California	20
CARL McQUILLION	
Free-lance Paralegal Service	20
JOSEPH D. COMPTON, Commissioner	
Board of Parole Hearings, Juvenile Matters	1
Opening Statement	5
Questions of Both Nominees by CHAIRMAN PERATA re:	
Reporting Authority	5
Barriers to Rehabilitation	6
Managing Drug Treatment in Custody	6
Preparation for Hearings and Decisions	7
Timeliness of Psych Reports	8
Placement Decisions	8
Ability to Check Out Institutions	10

Questions of Both Nominees by SENATOR PADILLA re:

Effect of Governor's Proposed Budget Cut and
Transferring Half of DJJ's Population to
County Jurisdictions 10

Questions of Both Nominees by CHAIRMAN PERATA re:

Introductory Training for Position 12

Questions of Both Nominees by SENATOR ASHBURN re:

Confidence in Personal Decisions regarding
Parole Suitability and Confidence in
Board's Decisions 13

Bottom-line Criteria in Decisions 14

What Is Needed to Do a Better Job 16

Technological Systems Used to
Track Wards 18

Witness in Support:

LT. BARBARA FERGUSON
San Bernardino County Sheriff's Department
California State Sheriffs Association 19

Motion to Confirm Both Nominees 22

Statements by SENATOR CEDILLO re:

Need for Diversity on Board 22

Impressed with Appointments 22

Statements by CHAIRMAN PERATA re:

Encouragement to Come Forward with
Suggestions to Improve System 23

Committee Action 24

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part outlines the various methods used to collect and analyze data, including surveys, interviews, and focus groups. It also discusses the challenges associated with data collection and analysis.

3. The third part presents the results of the study, showing the distribution of responses and the key findings. It includes tables and graphs to illustrate the data.

4. The fourth part discusses the implications of the findings for policy and practice. It suggests ways in which the results can be used to inform decision-making and improve outcomes.

5. The fifth part concludes the document by summarizing the main points and highlighting the limitations of the study. It also suggests areas for future research.

1	LINDA L. SHELTON, Commissioner	
2	Board of Parole Hearings	24
3	Opening Statement	24
4	Questions by SENATOR ASHBURN re:	
5	Fairness of Score Cards with Grants and	
6	Denials in Judging Performance	25
7	Criteria Used to Determine Suitability for	
8	Parole	26
9	Confidence in Decisions	27
10	Value of Psychiatric Evaluations	28
11	Grants More Multi-Year Denials than	
12	Other Commissioners	29
13	Practicality of One-Year Reviews	30
14	Conversation with Full Board on	
15	Frequency of Reviews	31
16	Questions by SENATOR PADILLA re:	
17	Current Backlog of Lifer Hearings	32
18	Steps to Reduce Backlog	32
19	Reasons for High Turnover on Board	33
20	Governor's Appointment of Two Task Forces on	
21	Sex Offenders	34
22	Suggestions to Make System Work Better	34
23	Questions by CHAIRMAN PERATA re:	
24	Reason for Most Postponements and	
25	Possible Remedies	35
26	Contract Psychologists	37
27		
28		

1	<u>Witness in Support:</u>	
2	MARC ERIC NORTON	
3	Attorney for Lifer Inmates	38
4	<u>Witnesses in Opposition:</u>	
5	CARL McQUILLION	
6	Paralegal Services	39
7	DONALD MILLER	
8	Legal Consultant	41
9	Questions by SENATOR CEDILLO re:	
10	Reasons for Not Reviewing Every Year	47
11	Possibility of Built-in Review Process	48
12	Questions by SENATOR ASHBURN re:	
13	Denials and Reviews in 2006 Compared to	
14	Chairman Davis	49
15	Statements by CHAIRMAN PERATA re:	
16	Probation Background Is Exception to	
17	Law Enforcement Dominance on Board	50
18	Recidivism and Lack of Re-Entry	
19	Programs	50
20	Encouragement to Keep Journal on	
21	Possible Changes to Improve System	51
22	Motion to Confirm	52
23	Committee Action	52
24	Termination of Proceedings	52
25	Certificate of Reporter	53
26	APPENDIX: Written Responses to Committee Questions	
27	By Appointees	54
28		

1900

1901

1902

1903

1904

1905

1906

1907

1908

1909

1910

1911

1912

1913

1914

1915

1916

1917

1918

1919

P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN PERATA: James Davis, who was scheduled to be heard today has been put over.

[Thereupon the Rules Committee acted upon other agenda items.]

CHAIRMAN PERATA: We have Paul Chabot and Joseph Compton, come up together. There's strength in numbers.

You guys almost dressed identically this morning.

MR. COMPTON: Youths board.

CHAIRMAN PERATA: Paul, why you don't you lead off, if you would.

MR. CHABOT: Yes, sir. Thank you.

Chairman Perata, Vice Chairman Ashburn, distinguished Members of the Committee --

CHAIRMAN PERATA: Do you get carded when you go into a bar?

[Laughter.]

MR. CHABOT: On occasion, sir, but if I've got Dad with me, I'm all right.

[Laughter.]

CHAIRMAN PERATA: I swear to God, I didn't set him up that way.

[Laughter.]

MR. COMPTON: I would get a the ticket for contributing to the delinquency of a minor.

[Laughter.]

MR. CHABOT: Thank you, thank you very much.

1 I'm thankful for the opportunity to be here
2 today, and appreciate the time that you and your staff have
3 taken in preparation for this hearing.

4 Like many of the wards I see in parole hearings,
5 I began my life on the wrong side of the tracks. At the age of
6 12, I entered drug rehab, where I lived after a series of
7 delinquent decisions. I was fortunate to turn my life around.
8 This past Sunday, I celebrated 20 years of continuous sobriety.

9 CHAIRMAN PERATA: Congratulations.

10 MR. CHABOT: Thank you, sir.

11 I take the job as a commissioner very seriously,
12 and not a day goes by that I don't reflect back upon the
13 decisions made that affect lives, community, public safety, and
14 victims. What I find remarkable and most impressive is the
15 ability to see true transformation from wards who have earned
16 the opportunity for parole, and they continue forward in a life
17 of honor and mutual respect for their neighbors without further
18 criminal acts.

19 I have served as a deputy sheriff reserve for 11
20 years, specializing in substance abuse and street gangs, two of
21 the very areas that affect most of the wards that we see. I
22 spent two years as a police officer in Los Angeles, serving as a
23 community liaison.

24 I also spent six years working for the White
25 House under President Clinton and President Bush, overseeing a
26 variety of law enforcement, justice, and drug control
27 initiatives. During my time in Washington, I was commissioned
28 as a Naval intelligence officer, assigned to the Pentagon during

1 the War on Terrorism. And today, I serve as a Navy Reservist
2 with the Pacific Fleet of the coast of California, leading
3 America's young sailors.

4 For five years, I was a professional speaker. I
5 traveled the nation, meeting with youth and community leaders,
6 discussing ways to reduce substance abuse, to treat addicts,
7 educate parents, and better enforce laws to protect communities,
8 as well as created a national website with resources for
9 substance abuse, mental illness, child abuse, runaways,
10 AIDS/HIV, domestic violence, and youth crisis help.

11 I was very fortunate to marry a very beautiful
12 young lady who's here today. She was a Los Angeles police
13 officer and later a probation officer working with high risk
14 youth. Together we founded the Inland Valley Drug Free
15 Community Coalition, which brings together neighborhood
16 stakeholders to help solve community problems.

17 I graduated from the Delinquency Control
18 Institute, the nation's only such program focused purely on
19 youth delinquency as well as crime prevention. My doctoral work
20 in education has allowed me the opportunity to develop further
21 understanding about how organizations and individuals can make
22 positive change and openly facilitate these discussions with DJJ
23 leadership.

24 I have over 20 years of experience working with
25 troubled youth, and a respectful track record of success based
26 upon these same morals that we expect rehabilitated youth to
27 possess prior to parole. In no short measure, I would hope that
28 I serve as an example to today's troubled youth so that they,

1 too, can find the strength to live a better life and understand
2 that rehabilitation is possible.

3 I very much appreciate the opportunity to serve
4 the State of California in protecting public safety, parolling
5 those who have earned the opportunity for parole, and ensuring
6 the rights of victims.

7 Thank you for your consideration of my
8 confirmation. I'd be happy to answer any questions that you may
9 have.

10 CHAIRMAN PERATA: It's too bad the Governor can't
11 get anybody that's qualified.

12 [Laughter.]

13 SENATOR PADILLA: Or articulate.

14 CHAIRMAN PERATA: Would you like to introduce the
15 nameless spouse?

16 MR. CHABOT: I would, sir. My wife, Brenda --
17 Chabot. I almost forgot my last name.

18 [Laughter.]

19 MR. CHABOT: She's almost five weeks pregnant.

20 MS. CHABOT [FROM THE AUDIENCE]: Five months.

21 MR. CHABOT: Five months, I'm sorry.

22 [Laughter.]

23 CHAIRMAN PERATA: It's a good thing you said
24 you've been sober for twenty years.

25 [Laughter.]

26 CHAIRMAN PERATA: Welcome, Brenda, however far
27 along you are.

28 Why don't you go ahead.

1 MR. COMPTON: Mr. Chairman, Senators, members of
2 the staff, I come before you today seeking your support in my
3 appointment as a Parole Commissioner with the Department of
4 Juvenile Justice.

5 I want to assure you that I take this position
6 seriously, and that I put all of my training, experience, and
7 the responsibility I feel to the public into every decision I
8 make while on the board.

9 I feel it is a privilege to serve in this
10 capacity, and I sincerely ask for the Committee's recommendation
11 for confirmation.

12 Thank you, and I'm ready to take any questions.

13 CHAIRMAN PERATA: I have just a fundamental
14 question first.

15 To whom do you report?

16 MR. CHABOT: Sir, as of the first of this year,
17 we now report to the DJJ leadership, which would be the
18 Undersecretary for DJJ.

19 CHAIRMAN PERATA: Do we have one?

20 MR. CHABOT: We do, sir, Bernie, and I apologize
21 for --

22 CHAIRMAN PERATA: You look familiar. I think we
23 did this before. You had a good time last time. Good, welcome
24 back.

25 [Laughter.]

26 CHAIRMAN PERATA: Any questions from the dais?
27 This is pretty good.

28 I don't think it's much of a secret that our

1 juvenile system is in pretty bad shape. If you would just
2 comment a little bit about what you've seen, the top concerns
3 that you have.

4 If there was a debate about adult parole and
5 redemption, I could understand that, but I think all of us in
6 juvenile believe that the end game or the end goal has to be
7 rehabilitation and bringing people back.

8 So, what are some of the barriers that you see?

9 MR. COMPTON: Parities?

10 CHAIRMAN PERATA: Barriers, the most critical
11 problems.

12 MR. COMPTON: Certainly drug addiction.
13 Addiction is one of the major factors.

14 CHAIRMAN PERATA: How are we prepared to manage
15 that, manage treatment in custody?

16 MR. COMPTON: They have very good treatment
17 facilities or programs within the facilities.

18 They're in the process now, through the
19 reorganization, of actually improving that process, going to
20 smaller treatment units, more individualized.

21 Again, it's a process, but the -- it's something
22 that I think is moving forward. You know, there's improvements
23 on the horizon with the hiring additional staff and implementing
24 the new reorganization.

25 MR. CHABOT: Sir, I'd comment and additionally
26 bring to the table, substance abuse staff is a key issue. I
27 think they affect most of the wards that we see in the
28 facilities.

1 I think gangs are also a very serious problem
2 within our facilities.

3 I think we're replicating what we see in the
4 institutions in society today. Gang and youth violence seems to
5 be on the rise. Communities are doing their very best they can
6 to deal with those issues.

7 I think we can improve upon our substance abuse
8 as well as our gang programs in the institution. And probably
9 one of my -- two of my primary concerns are creating better
10 educational programs for wards, which are supposed to come on
11 line through, I believe, around summer of '07 we're expected to
12 see some of those changes take place.

13 But also on the other side for public safety as
14 well as showing that parolees have been rehabilitated, lowering
15 the high rate of recidivism that we're seeing out in the
16 communities. That seems to be a concern of mine. We can do the
17 best job we can in the institutions, but our success, I believe,
18 should be measured on how well the parolee has transformed
19 through that process in the community without further
20 victimization.

21 CHAIRMAN PERATA: Let me ask you to do this, and
22 I don't want to role play it, but as you prepare for a hearing
23 with unnamed X, how do you prepare for that? What goes into
24 your decision making?

25 MR. COMPTON: Again, you look at their program
26 participation. They have a list of the programs that they
27 participated in, and whether they've completed the programs.

28 You look at case notes within the log. The

1 counselors will have made case notes concerning the
2 participation in the particular programs.

3 You have psychological reports that you can
4 review.

5 CHAIRMAN PERATA: How up-dated are those, the
6 psych reports?

7 MR. COMPTON: Normally they're relatively
8 current. I mean, there are occasions where they're not as
9 current as they should be, but normally they're a current
10 report.

11 Again, you look at their behavior while in
12 custody, their DDMS history.

13 CHAIRMAN PERATA: Just for laughs, what is DDMS?

14 MR. COMPTON: It's basically disciplinary
15 hearings. They have Level I, IIs, IIIs within the facilities.
16 And if they've -- how they've been behaving while in custody.

17 And placement is an extremely important issue
18 because, again, treatment within the facility is a portion of
19 their success, but again, a major portion of it is the follow-up
20 treatment that they're going to receive once they're returned to
21 the community. So, placement is very important.

22 CHAIRMAN PERATA: How do you determine? Do you
23 decide where they're placed?

24 MR. COMPTON: That is actually working with the
25 parole officer that is going to be their parole officer in the
26 community and the facility. It's something that we actually
27 just evaluate. And sometimes, if we see something that we don't
28 think is adequate, we can --

1 CHAIRMAN PERATA: Is that placement a
2 recommendation that you have in front of you during the parole
3 hearing?

4 MR. COMPTON: Yes.

5 MR. CHABOT: Sir, I just might add that we do
6 spend a considerable amount of time --

7 CHAIRMAN PERATA: You're young and you're polite.
8 This is really something.

9 MR. CHABOT: Thank you, sir.

10 We spend approximately 30 minutes on the file.
11 There's a great deal of information there. SB 459, Title 15,
12 has about 40 general areas that we gauge the ward's success in
13 there.

14 Now, it might be different if you're dealing with
15 a sex offender compared to somebody there for a murderous type
16 crime. So, you might gauge your questions a little bit
17 differently. Sex offenders, for example, you're going to gauge
18 a lot of education on the sex offender cycle, and obviously
19 psych evals are very important to that.

20 We can very easily request a new psych eval. On
21 occasion I have, for concern, wanted to see an updated psych
22 eval. For example, if somebody's tried to commit suicide, or
23 there's been an issue of serious depression in those, these are
24 things that we'd like to see addressed.

25 And the psych evals are a pretty quick
26 turn-around. I've been pleasurably surprised by the response
27 from the institutional staff with that aspect.

28 CHAIRMAN PERATA: Your parole hearings are at the

1 institutions?

2 MR. CHABOT: Yes, sir, and also some in the adult
3 facilities.

4 CHAIRMAN PERATA: Do you get a chance, or do you
5 avail yourself to walk around, kick the tires of the
6 institutions?

7 MR. COMPTON: Yes.

8 MR. CHABOT: I'd also add, the placements as
9 well. There's a variety of placements throughout the community,
10 and I have a chance to visit those -- Phoenix House, Venice
11 Beach, sex offender placements out in Perris, California -- to
12 understand the environments that they're going into. I think it
13 helps gauge your success.

14 Also, in reviewing their file, in the annual
15 review, it helps set them up for success.

16 CHAIRMAN PERATA: Alex?

17 SENATOR PADILLA: One question.

18 The Governor's budget proposals include cutting
19 the juvenile state population in half, by transferring half of
20 them to county jurisdictions.

21 What's your take on that, recognizing what you
22 said earlier, the need for education, for psych evaluation,
23 health care, treatment, et cetera?

24 MR. CHABOT: Sure. It's an interesting take. To
25 work on community problems, we can't arrest, treat, or prevent
26 our way out of problems. It's education, prevention, treatment
27 and enforcement to try to make the problem smaller. We're never
28 going to make it go away.

1 So, I'm sorry. Could you repeat your quest

2 SENATOR PADILLA: The gist of the question is, if
3 we were to send half of juveniles into county facilities, what's
4 going to be the impact? What's going to be the consequences of
5 that?

6 MR. CHABOT: Well, I think from my perspective, I
7 live in the south, Southern California. Mr. Compton lives in
8 the north. So, I deal with mostly Bakersfield and south.

9 I can tell you that L.A. County, for example, I
10 think contributes about 23 percent of the population of YA, or
11 DJJ, L.A. County.

12 L.A. County and some counties, I know, would be
13 overburdened and taxed at this very moment to take on that
14 population.

15 The Youth Authority population has dropped
16 considerably, from around 10,000 around 10 years ago, to maybe
17 2700-3,000 today.

18 So, I think the local counties might be taxed
19 initially to help find the resources to handle that population.

20 And I might also add that many of these wards who
21 end up in the Youth Authority have already come through the
22 youthful facilities within the counties. Their behavior might
23 have been more of a risk to then send them to DJJ.

24 So, I think there's a variety of issues to look
25 at in that area.

26 MR. COMPTON: Again, depending on the preparation
27 within the community, certainly I think that the wards within
28 the state facility would benefit from this lower population.

1 It's more individualized treatment, safer environment.

2 But, you know, I don't think that that's
3 something that they can do immediately. There has to be
4 preparation within the community to handle that.

5 SENATOR PADILLA: I wanted to ask that question
6 because my district is in Los Angeles County. And while it may
7 have benefits to the state, what the net impacts are for those
8 juveniles going into a county system that's already
9 overburdened, already overpopulated.

10 And if the ultimate goal here is the education,
11 rehabilitation and other support services to reintegrate
12 somebody back into society in a healthier fashion, this proposal
13 to shift to the counties is not a step in the right direction as
14 far as I'm concerned.

15 CHAIRMAN PERATA: You come to these positions
16 from different backgrounds.

17 Are you given any introductory training?

18 MR. COMPTON: We have approximately two weeks of
19 training when we initially came on board with the -- in the
20 position.

21 CHAIRMAN PERATA: Any after care?

22 MR. COMPTON: We have a monthly meeting, and
23 approximately half of the monthly meeting was devoted to
24 training.

25 We also in December had an additional 40 hours of
26 training for the position.

27 SENATOR ASHBURN: I had a question.

28 You're members of a board. Having served on

1 boards myself, and the Legislature in a way being a large board,
2 we have observations about the overall performance of the board,
3 or of the other members of the board.

4 And so, I think for me the critical issue is your
5 individual performance, and the criteria that you use to make a
6 determination as to the suitability of someone to be granted a
7 release back into the community.

8 How sure are you in your own mind when you make
9 your decision? And how sure are you of the decisions of your
10 board in making that determination to either deny or to grant?

11 MR. CHABOT: I second-guess myself often. And I
12 think that just comes with the nature of the job. There's a lot
13 of, I guess, analytical thought that goes into this. It's very
14 subjective. Depending on -- the severity of the crime depends
15 on how many board members you're sitting with. For example, the
16 sex offenders or those on there for murder, you'll have a full
17 board. A lower level offense, you'll have two, and then for the
18 very, very low level, you'll have one.

19 But I -- at times it's -- you take it home with
20 you. You know, you read volumes of material, sometimes a phone
21 book thick, through multiple cases, one after another.

22 And you do try to make the very best decision.
23 If I were to simplify this, looking at their treatment and
24 training for rehabilitation as well as the risk to the
25 community, I think that's where you begin to open the discussion
26 that you have with staff and the ward to gauge their success.

27 MR. COMPTON: And I can tell you, quite often in
28 the mail we get a manila envelope that has information

1 concerning critical incidents, arrests of wards. And, you know,
2 you always read that looking to see whether it's somebody that
3 you may have paroled.

4 So, you know, I don't think that there's ever 100
5 percent certainty.

6 But, you know, I can say that I have 100 percent
7 certainty with the people that I've worked with, that every
8 decision that I've ever seen them make has always been something
9 that they've taken seriously. It's never been, you know, where
10 they've gone into a meeting and have been distracted, or not
11 have put all of their attention as to what was going on. So,
12 I'm very confident that the decision my fellow board members
13 have made have always been very thoughtful and the best decision
14 that they could possibly make.

15 SENATOR ASHBURN: Can you articulate the
16 bottom-line criteria that you personally apply to the decision
17 that you're going to make on that particular individual?

18 MR. CHABOT: I would say it depends on the case
19 that we're hearing. For example, I mentioned earlier, a sex
20 offender. There's a lot of questions that are going to go into
21 that. And you get into some sometimes graphic questions that
22 you might not get into with somebody else who has a different
23 offense.

24 Some of the questions, you know, could range,
25 when was the last time you fantasized about a child? And you go
26 into these questions, and sometimes they take you down these
27 roads that either make you feel comfortable, or begin to raise
28 red flags. And from there, you sort of mine that information to

1 ask further questions.

2 And I've had hearings that lasted as short as 45
3 minutes, but I've had some that have lasted up to three hours.
4 And it just seems with the more serious nature, the murderers,
5 the sex offenders, that there's a lot of questions from the
6 full board. The more members you have on the board, the more
7 decisions you make.

8 But to the other part of your question, I have
9 made parole decisions where I have found that the parolee has
10 not been cooperative in society, and has gone back to the
11 criminal behavior.

12 I think one of the most hurtful things for us to
13 see on the board, and it's not so much as an individual but more
14 as a group collectively, about whether we're making a
15 difference, is the notices that we do get in the mail. I think
16 in the last seven months, there was a half a dozen Youth
17 Authority parolees who killed other people throughout the State
18 of California. And so, you wonder, how did we miss that? And I
19 don't mean we as individuals, but as collectively as a whole
20 organization going forward.

21 I believe that our success in DJJ should be
22 measured partially at the end result. How successful are the
23 parolees at the end of their jurisdiction? Meaning, we give
24 honorable, dishonorable, or general discharges. Right now, the
25 dishonorable discharges are quite high, maybe around 70
26 percent. That number needs to be improved if we're really
27 meeting the mark and doing what we should be doing collectively.

28 MR. COMPTON: On the other end of sex offenders,

1 looking at it from the substance abuse aspect, how they've
2 utilized the program while in custody, how they can identify
3 their support systems when they're back in the community, the
4 type of treatment that they're planning, and their level of
5 participation in that treatment that they recognize that they're
6 going to need when they return to the community.

7 There's just numerous factors that go into the
8 decision. The placement, again, is just so very important, the
9 community that they're going to be returning to, if they had,
10 you know, gang involvement in that community.

11 And many times I'll ask the ward, "How
12 comfortable are you returning to the community? What do you
13 think is going to be the biggest hardship that you're going to
14 have returning to the community?"

15 And oftentimes they're very honest. And you
16 know, "I feel that I'm going to be approached by -- by these
17 negative peers that I had associated with before."

18 And, you know, if they recognize the problem, and
19 again, if they show a concern, then it becomes our concern. At
20 that point, you know, we start considering as to whether another
21 placement might be a better alternative than placing the ward
22 back in the -- you know, basically the same hornets' nest that
23 he left when he came into custody.

24 SENATOR ASHBURN: What do you need to better do
25 your job?

26 MR. CHABOT: Well, I would say improved
27 technology for us.

28 SENATOR ASHBURN: What kind?

1 MR. CHABOT: Well, if we were able to computerize
2 the records that we have. We sort of have archaic binders, and
3 there's no reason --

4 SENATOR ASHBURN: All paper records.

5 MR. CHABOT: Correct. And it causes a burden, I
6 think, in transporting -- not for us, but for the institutions.
7 And in the reading that we do, we transcribe by hand. And so,
8 if you're -- I might in one parole office do 30 to 40 annual
9 reviews, reviewing the wards' records for that year, gauging
10 their progress within the community. I could write easily a
11 page or two pages. Well, that equals out to a lot. And at the
12 end of it, you wish you could just type the thing out. We don't
13 have that ability to do that.

14 Just a thought for public safety, I know they're
15 looking at the GPS system for sex offenders. And it seems like
16 a high amount of the recidivists are those who are in substance
17 abuse or gang affiliated. And I would think if it's
18 inexpensive, to look at a GPS system for continued monitoring in
19 the community for those that we parole out there, I think it
20 would be positive reinforcement for them. With limited parole
21 agents into a wide, vast area, it just might provide that
22 continued reinforcement. I think that's proven effective in
23 programs like Narcotics and Alcoholics Anonymous, where you do a
24 routine check if you have a sponsor at 30, 60, 90, 120 days on
25 through, and it seems to have the most success of any program
26 out there. And I think these little indicators that we could
27 bring forward might be of use for us for public safety, as well
28 as the ward's progression in society.

1 MR. COMPTON: And placement, halfway houses in
2 the community. A lot of times you're dealing with a sex
3 offender that may have a substance abuse problem. Most
4 substance abuse facilities do not allow sex offenders. So, they
5 have to have a dual use type of facility.

6 You know, homes, rather than going into kind of
7 seedy hotels, for want of a better term, for placement. I mean,
8 you're taking these kind of at-risk individuals and you're
9 putting them in neighborhoods that really is going to provide
10 them -- you know, put them in that environment.

11 So, you know, besides what the facility is, the
12 programs and treatment that they receive while in custody is
13 only half of the treatment issue. The other half has to be that
14 in the community.

15 SENATOR ASHBURN: Do you happen to know what's
16 being done in terms of technology for the tracking of these
17 wards, and for the work of the board?

18 I hate to raise computer system questions, the
19 states been so very successful in this area, he said
20 sarcastically.

21 Do you happen to know if there's something in the
22 works?

23 MR. CHABOT: I can't speak too much on the
24 institutions. As you know, they have electronic tracking
25 systems. We see it for their negative behavior. They track
26 that.

27 I know in the 2005 Inspector General's Audit
28 Report, must have been yea thick, one of the items on there, I

1 believe, was that they needed to improve the tracking system for
2 that.

3 And I think it's a WIN system. I don't know what
4 WIN actually stands for. But that's an electronic system that I
5 think -- I don't know how long it's been around, but it seems to
6 be effective in tracking back.

7 For the other items, I wouldn't know, sir.

8 MR. COMPTON: And different communities also,
9 they have, besides home monitoring, electronic monitoring.
10 Fresno County, I believe, has electronic monitoring with a GPS
11 also, and very helpful.

12 The first 90 days, 90 to 180 days within the
13 community is the most critical period of time. And that type of
14 monitoring is very helpful for the really at-risk individuals.

15 SENATOR ASHBURN: Thank you.

16 CHAIRMAN PERATA: Is there anyone present that
17 would like to speak in favor or in opposition of the two
18 nominees? Please come forward.

19 LT. FERGUSON: Good afternoon, Mr. Chair and
20 Committee Members. I'm Lieutenant Barbara Ferguson with San
21 Bernardino County Sheriff's Department.

22 I'm here speaking on behalf of Sheriff Gary
23 Penrod, and also for California State Sheriffs Association.

24 We ask for your endorsement in support of these
25 two gentlemen.

26 Paul Chabot is a reserve with San Bernardino
27 County Sheriff's Department, so I know a little bit about his
28 history. He is a very qualified young man. I don't need to

1 repeat any of his qualifications. I think he has shown you what
2 he's all about. We have known Paul for 16 years as he's been
3 affiliated with the Sheriff's Department. And he is of high
4 morals and standards, and he has a lot of integrity, and we're
5 very proud of him.

6 And Sheriff Penrod would appreciate your
7 endorsement of these two young men to support them for
8 confirmation today.

9 CHAIRMAN PERATA: Thank you.

10 MR. SALARNO: Good afternoon. I'm Harriet
11 Salarno with Crime Victims United of California.

12 We strongly support Paul. As you know, our
13 foundation is dedicated to at-risk children. With his
14 qualification, he's well suited for this position.

15 Thank you.

16 CHAIRMAN PERATA: Thank you.

17 MR. McQUILLION: Senator, Committee, I've been
18 before you before, last year, the year before. My name's Carl
19 McQuillion. I run a free-lance paralegal service in Vacaville,
20 California now, where I moved.

21 I spent 30 years in the Department of Corrections
22 as a life prisoner. I was ordered released by the Ninth
23 Circuit Court of Appeals in 2002, and I was released in 2003.
24 And the Court told the Parole Board that they had kept me
25 illegally in prison for nine years.

26 Since I have been out, I have done extremely
27 well. I run, as I said, a free-lance paralegal service. I work
28 for five different law firms in California. I work exclusively

1 on parole cases.

2 And I came here today because I wanted to remind
3 you, as you said last year and the year before, that ya'll
4 needed to take a very hard look at whether or not you was going
5 to continue to affirm these law enforcement backgrounds on the
6 Board of Prison Terms. We have 15 commissioners, and 12 of them
7 are all law enforcement.

8 So, I came here to oppose on that basis.
9 However, I listened to Mr. Chabot speak, and I read his summary.
10 And I made a few notes as I was sitting back there. And I
11 believe that his background, his interest, his insights make him
12 qualified to be on the Board of Prison Terms.

13 And I know he's going on this juvenile, but
14 there's no -- there's nothing to prevent him from hearing adult
15 matters either. And I listened to him speak about his
16 background and all of his activities in the community, and I was
17 really impressed for someone so young. I mean 32, but he's
18 still very young to be in the business and to have done and
19 accomplished as much as he has.

20 And because of that, and working with youth, he's
21 clearly -- understands the dynamics of misbehavior, criminality,
22 and reclamation. And if he brings that insight to the board, to
23 these hearings that he's got to sit on, and make determinations
24 about somebody's future, and he does this in the honest and
25 forthright manner, which I believe he will do so, then I -- I
26 speak in support of him. And I think he would be a great
27 candidate for the board.

28 Thank you.

1 CHAIRMAN PERATA: Thank you, sir.

2 Anything further?

3 SENATOR ASHBURN: I'll make a motion.

4 CHAIRMAN PERATA: We have a motion.

5 SENATOR CEDILLO: Just for the record for both of
6 them.

7 The witness had just indicated our commitment is
8 to make sure that there's a diversity of life experience and
9 views on the questions of redemption, reclamation as it was
10 stated, and that we have rejected nominees because it's not to
11 be exclusively of any direction, right or left, tough on crime,
12 soft on crime, smart on crime, whatever the categories are.

13 We want the life experiences and particularly a
14 balance, because they sit in judgment of people, and there lies
15 their liberty. And it's a job of tremendous responsibility.

16 I find in both of them, and I applaud the
17 Governor and the appointment secretary, whoever made these
18 appointments, because they're not exclusively law enforcement
19 backgrounds, but they have the life experience, experience of
20 recovery. That very experience in itself is something that, at
21 its very foundation, says there's redemption, and that there's a
22 method and approach to it that overcomes our concerns about the
23 law enforcement background.

24 And I was very impressed. We didn't get a chance
25 to talk more about your thoughts about leaving law enforcement
26 because of your dissatisfaction that there was not sufficient
27 commitment and resources for correction, or persuasive such that
28 in both instances, I'm pleased to vote for both of them.

1 But maintaining the same as our witness did, the
2 same principle and commitment that there should be a diverse
3 point of view that reflects an appreciation for redemption and
4 reclamation.

5 CHAIRMAN PERATA: I just send you off with one
6 idea, and that is, none of us can do this separately. What you
7 know is something that we don't know. And I don't want to know
8 all that you know.

9 I'd like to know what applies to the way you view
10 your job and the system itself. And oftentimes we say adios,
11 and we never hear from anybody again. And I would just like to
12 offer you -- and you don't have to come back in this Senate
13 again -- but after a time, if things involving your work provoke
14 some thoughts about the way it could be done better, we would
15 encourage you to talk to us individually, collectively, our
16 staff, whomever.

17 Your service is rare. There are very few people
18 who are asked to do this, fewer that are qualified to do it.
19 And I think of the ones that I've seen to date, you're right up
20 at the top. So, there's a lot riding on both systemically and
21 the lives of individuals on the decisions that you make, so God
22 speed.

23 We have a motion to approve both.

24 SECRETARY WEBB: Cedillo.

25 SENATOR CEDILLO: Aye.

26 SECRETARY WEBB: Cedillo Aye. Dutton.

27 SENATOR DUTTON: Aye.

28 SECRETARY WEBB: Dutton Aye. Padilla.

1 SENATOR PADILLA: Aye.

2 SECRETARY WEBB: Padilla Aye. Ashburn.

3 SENATOR ASHBURN: Aye.

4 SECRETARY WEBB: Ashburn Aye. Perata.

5 CHAIRMAN PERATA: Aye.

6 SECRETARY WEBB: Perata Aye. Five to zero.

7 CHAIRMAN PERATA: Congratulations to both of you.

8 MR. CHABOT: Thank you.

9 MR. COMPTON: Thank you.

10 CHAIRMAN PERATA: Our final nominee, or
11 appointee, is Linda Shelton.

12 Linda, welcome.

13 MS. SHELTON: Good afternoon.

14 CHAIRMAN PERATA: Opening remarks, if you have
15 any.

16 MS. SHELTON: Good afternoon, Mr. Chairman,
17 Senator and Members of the Committee.

18 My name is Linda Shelton. I was appointed as
19 commissioner on March 27th of the year 2006.

20 Prior to that, I spent 27 years serving the
21 public mostly in the capacity of probation officer,
22 institutional manager, and probation chief. I spent seven years
23 in a junior college, teaching Administration of Justice, and a
24 great deal of time working with both youth and adults in the
25 community.

26 I felt that this has been a natural transition
27 for me, to move from probation to parole, because it still
28 serves the same purpose, and it's two-fold. And that is, to

1 protect the community while offering opportunities for people to
2 have a second chance and be successful in their community.

3 It's kind of been a natural fix for me and a
4 comfortable role to be in.

5 I would like to take a second to introduce my
6 husband and my best friend, and a man who's very nervous about
7 confirmation because he is retired, and he wouldn't like his
8 life to change too much if I don't become confirmed.

9 [Laughter.]

10 CHAIRMAN PERATA: You're in safe hands.

11 MS. SHELTON: He is retired from 35 years in the
12 U.S. Forest Service as a chief electrical engineer for State of
13 California. And he's been very supportive of my role in this,
14 especially being gone from home as much as I am. He is my
15 right-hand guy.

16 Pretty much, that's me in a nutshell, unless you
17 get me talking about my grandchildren, so we won't go there and
18 go on with business today. I have pictures.

19 [Laughter.]

20 CHAIRMAN PERATA: Any questions from the dais.

21 SENATOR ASHBURN: I have one area that I would
22 like to go in. It has to do with the number of grants and the
23 number of denials.

24 There are people that keep score cards, you know,
25 how many grants and denials each of the commissioners are voting
26 for.

27 And I'd like to know your views on whether that's
28 an accurate and a fair way to judge your performance?

1 MS. SHELTON: I don't keep score. And I would
2 have to say no, I don't think it's an accurate or fair way to
3 judge performance because there are so many factors that need to
4 be taken into consideration when it comes to a grant or a
5 denial.

6 First of all, we have all different types of
7 levels of institutions. I work Pelican Bay, and that's a Level
8 IV institution. It is very rare, if ever, that a grant will
9 come out of that institution. Those gentlemen walk in, and they
10 have 900 points. And if you do the math, it'll be a very long
11 time before they can get into a Level II institution.

12 So, just to say Commissioner Shelton, you know,
13 gave X amount of the grants and X amount of the denials, and not
14 factor in the nature of the institution, the types of programs
15 that are available, as well as if you look at California Medical
16 Facility, you're dealing with a variety of mental health issues,
17 physical disabilities.

18 There's a broad spectrum that must be covered
19 before you can base a decision strictly on numbers without the
20 information behind it.

21 SENATOR ASHBURN: What criteria do you use, your
22 personal measurement of the suitability of an inmate for a
23 grant?

24 MS. SHELTON: That's a multi-fold process. With
25 regards to the paper portion of it, of course I review the file
26 and the C file, but I take a look at what the commitment offense
27 is, what their prior record is, what their social history is,
28 what they've been doing in the institution in terms of have they

1 -- what their discipline history is like, do they have a
2 vocation or two or three, what kind of self-help programs have
3 they been involved in, what their education is.

4 And we talk about issues that are very nebulous:
5 insight and remorse.

6 We take a look at their parole plans. We take a
7 look at their support letters. We take a look at those that are
8 in opposition.

9 And I kind of define it in my own personal way
10 as, I'm looking across the table at somebody, and it's three
11 dimensional. It's not one dimensional. You have to be there to
12 see, touch, feel.

13 So, the process for me is a head, heart, and a
14 gut one.

15 And when I walk away from the decision, I don't
16 have to look back on it because I know I've done my homework in
17 advance.

18 SENATOR ASHBURN: And you individually are how
19 sure of your decision? It sounds like pretty close to 100
20 percent.

21 MS. SHELTON: I am pretty -- I am very sure.

22 And it's not just me making that decision. I
23 always have a deputy commissioner next to me. That deputy
24 commissioner is my equal partner in the decision, whether it's a
25 denial or not, or a grant. And they know that they're an equal
26 partner with me. And I tell them ahead of time, if they haven't
27 worked with me before, "We're in this together, and we have to
28 agree 150 percent, both of us, before we will give a grant."

1 And it is often very easy to do that, because
2 you're looking at this person who has been incarcerated for
3 25-30 years, who's done everything possible that they can do to
4 move forward.

5 SENATOR ASHBURN: How valuable are psychiatric
6 evaluations?

7 MS. SHELTON: They are going to soon be more
8 valuable.

9 Currently, the process that we're using, I think
10 it promotes some conflict of interest situations. We have
11 psychologists within the institution that are treating inmates
12 and doing evaluations on them at the same time.

13 We are putting together a new process that will
14 involve the hiring of 17 psychologists, along with 2 senior
15 psychologists. At this moment we have 14 of those psychologists
16 hired. They will be going through an intensive training, and I
17 think they will be pretty much on line by February 1st.

18 SENATOR ASHBURN: And they'll be employees of
19 whom?

20 MS. SHELTON: They will be employees of the
21 state. They will be contractors. They're called contract
22 psychologists.

23 SENATOR ASHBURN: But are they employees of the
24 board, of your board?

25 MS. SHELTON: Yes, sir.

26 SENATOR ASHBURN: And so, they will be separate
27 and apart from the institutions' --

28 MS. SHELTON: Yes, sir, totally.

1 SENATOR ASHBURN: -- psychiatric staff?

2 MS. SHELTON: Yes. And it will be a two-fold
3 process. Not only will there be a psychiatric evaluation that
4 will have the same format statewide, it will also involve the
5 use of one or two, or even more, risk assessment tools.

6 So, from my perspective, and I've been reading
7 psych evals pretty much all my life, because, of the probation
8 background, some of those psych evals right now, you can change
9 the name of the inmate.

10 But with the new format, and I've seen a little
11 bit of it, it's very comprehensive. And it's more than a
12 15-minute interview with the inmate.

13 The risk assessment is what I'm really looking
14 forward to because that is a tool that is scientific, and it can
15 measure the risk of an inmate to the community, and their level
16 of dangerousness.

17 SENATOR ASHBURN: You're able to recommend
18 either, if you're denying, an one year, two year, multi-year
19 reevaluation for the inmate.

20 Do you grant a longer period of time between the
21 opportunity for a person to be heard again than other
22 commissioners?

23 MS. SHELTON: I wouldn't say that I grant a
24 longer time than other commissioners.

25 I'm going to try to explain my process involved
26 in this, because I can't speak for anybody else.

27 Under a previous administration, there was a
28 thought that one year denials should be the way to go. But when

1 I have a person in front of me, I need to be very realistic with
2 them about, "I'm telling you, Mr. Inmate, that you have to
3 accomplish these five things. How long is it going to take him
4 or her to accomplish what I'm requesting of them?

5 To set up for them, if I give them a year denial,
6 and I've asked them to do three years' worth of work, that's a
7 lose-lose situation for the inmate and everybody else involved.

8 So, I think it's -- I do give three, and four,
9 and five-year denials. Five-year denials, especially at Pelican
10 Bay because those gentleman are not going to be able to
11 accomplish a lot in a lot of time.

12 But for me, the realistic approach is, how long
13 is it going to take him to do what this panel is asking him to
14 do.

15 SENATOR ASHBURN: What would you say to other
16 commissioners who would routinely grant a one-year review? Are
17 they being fair to inmates, if it's not possible for the inmate
18 to accomplish what needs to be accomplished in a one-year period
19 of time for the review that's been granted to them or
20 recommended?

21 MS. SHELTON: It depends. It's kind of, again,
22 it depends on the scenario.

23 And I'm not trying to waffle around your
24 question.

25 SENATOR ASHBURN: No, I actually liked your
26 answer.

27 I'm wondering now what happens with the one-year
28 review, and if it's totally impractical?

1 MS. SHELTON: Sometimes it is. You know,
2 sometimes it is totally impractical.

3 It's -- the process is subjective. No matter how
4 much consistency we want in the parole process, how much
5 objectivity we want, it's a subjective process because it
6 involves my partner and me, and where we came from, where we've
7 been, what we've done, what we feel.

8 And from hearing to hearing, the inmate changes.
9 They've learned how to answer questions, or they have developed
10 and grown become more mature.

11 I think you have to approach each hearing on an
12 individual basis and just say, I do look at what the other
13 commissioners have asked for the inmate to accomplish. But the
14 timeframe that I decide upon with my deputy commissioner is what
15 I'm feeling that day, what I've learned that day, and --

16 SENATOR ASHBURN: Has there ever been a
17 conversation about that topic throughout the entire board? It's
18 sort of an administrative issue of how long the period of time,
19 based upon the ability of the inmate to actually accomplish the
20 steps that would be necessary for a grant.

21 MS. SHELTON: And you know --

22 SENATOR ASHBURN: Has there ever been a
23 conversation like that during --

24 MS. SHELTON: We have conversations about that
25 frequently, because one of the problems there is that every
26 institution is different.

27 There are times -- I have worked with inmates.
28 Last week I was at San Quentin. I had inmates there that had

1 done 2-3,000 hours' worth of vocational training in another
2 institution and then get transferred to San Quentin, where that
3 specific vocational training is not available. That truly sets
4 them back, and it's through no fault of their own.

5 SENATOR ASHBURN: But you can, as a commissioner,
6 take into consideration that which they had achieved.

7 MS. SHELTON: We do take into consideration that.

8 SENATOR ASHBURN: Thank you.

9 CHAIRMAN PERATA: Alex.

10 SENATOR PADILLA: A question regarding the
11 backlog, particularly in lifer cases.

12 Do you happen to know what the current backlog
13 is?

14 MS. SHELTON: I think I heard this morning that
15 we're at about 1,099.

16 SENATOR PADILLA: What steps may be taken to
17 reduce that backlog?

18 MS. SHELTON: Actually, what we've been trying to
19 do is maintain commissioners on board so we can reach a board of
20 twelve. And that has not happened in the ten months that I've
21 been a commissioner. There's so much turnover.

22 And I think that having a full board, and some of
23 the things that we're looking at is travel and transportation,
24 and trying to keep commissioners with a certain radius so we can
25 get to the institutions in a more timely fashion.

26 We're averaging about 16 hearings a day [sic]
27 now, but I think the biggest deficit is not being able to
28 maintain 12 commissioners to do the 16 hearings a week.

1 SENATOR PADILLA: Has that been probably the
2 single biggest reason why the backlog is what it is?

3 MS. SHELTON: Un-huh.

4 SENATOR PADILLA: So, what explains the turnover?
5 Are people resigning from the board?

6 MS. SHELTON: I think there's a lot of reasons.
7 Perhaps maybe some commissioners come in without being really
8 fully aware of the commitment to travel. And that's a difficult
9 one for those commissioners that have young families.

10 I have no children at home, but I do have
11 grandchildren. I did mention that.

12 SENATOR PADILLA: We heard you have pictures,
13 too.

14 [Laughter.]

15 MS. SHELTON: Yes.

16 It's a serious commitment. This job entails over
17 80 hours of work a week.

18 I either leave my home on a Monday morning or a
19 Sunday afternoon, depending on how far I have to travel. And it
20 takes about an hour per file, so that's 16 hours a week in file
21 review. I live in Redding, which is a long time from anywhere,
22 and even including Pelican Bay.

23 Then there's the hearings themselves. And even
24 though we're scheduled to have hearings two hours apart, it's a
25 rare hearing that you can do realistically in two hours,
26 especially if you're looking at giving that inmate a grant.
27 Those hearings probably average about four hours, because you
28 want to make sure that the "i"s are dotted and the "t"s are

1 crossed.

2 It's an extremely demanding job. It happens to
3 be one I enjoy a great deal, and I like working with people.

4 So I think that people just don't know the
5 demands, and the time, and the way that they're -- the time that
6 they're away from their families.

7 SENATOR PADILLA: Question in another area.
8 Actually, I'm just trying to get your thoughts.

9 Last year the Governor appointed two different
10 task forces dealing with the issue of sex offenders, and
11 high-risk specifically.

12 Any observations you can share with us? As
13 Senator Perata mentioned earlier, any ideas on how we can make
14 it work better from assessment, to treatment, to housing, and
15 placement, to your job?

16 MS. SHELTON: With regards to sex offenders, you
17 know, I think one of the things that I think will give us a
18 little more information in the institution is that there is
19 going to be a specific tool used during the psychological
20 process that helps identify the sex offenders and the
21 pedophiles, and give us a little bit more information as to what
22 their needs are.

23 I am a supporter of the GPS system and was
24 involved with that early on. In Glenn County when I was a
25 chief, we started our electronic monitoring program there
26 specifically for sex offenders and other what are considered
27 dangerous probationers in the community.

28 I think it's something that we're just going to

1 have to keep hitting head on.

2 My own two cents' worth at the local level, there
3 shouldn't be a whole lot of plea bargaining done. I guess what
4 I'm trying to say to you is, these guys need to get treatment
5 even though there is that thought that treatment is not possible
6 for sex offenders. I think there's some limited level that
7 might help mediate the risk level.

8 I don't know if that answers your question.

9 SENATOR PADILLA: Yes, thank you.

10 CHAIRMAN PERATA: We've had in 2005, there were
11 32 percent postponements; in 2006, about the same. So, it's one
12 out of every three hearings are postponed.

13 You just described where you have to go. So, in
14 terms of people traveling to something that's not going to
15 happen, what's the nature of most postponements? Is there a way
16 to remedy that?

17 MS. SHELTON: There is a variety of reasons for
18 postponements. I think right now specifically in the last
19 couple of months I would note that it would be psychological
20 evaluations were not completed.

21 Part of it is, I think, at the institutional
22 level. Again, there's a lack of resources. CTF, for example,
23 Soledad, has the highest population of lifer inmates, the most
24 that are overdo for their hearings, and probably the least
25 amount of the psychologists per capita. So, it's anticipated.
26 Example, I went there the week before Christmas, spent the
27 entire week there, and 12 of my 16 hearings had to be postponed
28 for a variety of reasons, not just psychs.

1 Some of the other reasons they're postponed, we
2 had a quarantine at San Quentin recently, which puts back all
3 the hearings not just for psychologicals, but because the inmate
4 attorneys were not able to interview their clients and move
5 those forward.

6 Sometimes private attorneys are called to court
7 on different reasons, a privately retained attorney, so they
8 cannot be there to represent their client.

9 At Vacaville Medical Facility, there's a lot of
10 postponements due to the physical and mental illnesses of the
11 inmates that live there.

12 So there's -- it can move.

13 With regards to postponements, I would say that
14 everybody comes to the hearing room prepared to do a hearing.
15 None of us like postponements. We're not doing them, as has
16 been intimated in the past, to get out of work on Fridays.

17 I would just as soon not have a postponement
18 because I've already spent over an hour reviewing that file.
19 It's especially hard to have a postponement when you've got
20 victim's next of kin there, wanting to participate in the
21 hearing.

22 So, I think we're starting to move forward on how
23 we can help prevent some of those by having some of the work
24 done ahead. When those files are put together, whoever puts
25 them together needs to be looking: is there a current psych; is
26 there a current board report; is this file missing anything. So
27 that, if that work's not going to be available for a hearing,
28 that person should be moved out and another one put in so that

1 there's a slot always filled.

2 CHAIRMAN PERATA: It was mentioned earlier that
3 Juvenile is going to a contract relationship with psychologists.

4 Is there any such thing going on with you? Not
5 you personally, unless you'd like to share that with us.

6 MS. SHELTON: I do have my own -- no.

7 CHAIRMAN PERATA: You have grandkids. You'd have
8 to.

9 MS. SHELTON: That's true.

10 The psychologist project that I've being
11 referring to, are contract psychologists for the adult --

12 CHAIRMAN PERATA: So, you have contract
13 psychologists. They're not institutional psychologists. You
14 don't have enough of them?

15 MS. SHELTON: Well, we're right in the middle of
16 transitioning from institutional psychologists to the contract
17 program. And that hopefully will be up and running in full by
18 February 1st. So right now, it's a mixed bag at the
19 institutions to make that transition be a smoother one.

20 CHAIRMAN PERATA: Of the three most prevalent
21 reasons that you cited, two of them are acts of God, but this
22 one isn't.

23 MS. SHELTON: Right.

24 CHAIRMAN PERATA: I can't imagine. It's bad
25 enough that you've been in prison for a long period of time, and
26 then, all of a sudden, you get blown off because of that.

27 I would like to know if this doesn't change to
28 your satisfaction -- this is not a black mark on your appointee

1 or upon those of us voting for you. It's just something we'd
2 like to fix. So, if it doesn't remediate to your satisfaction,
3 and you seem to have a pretty good grasp of these things, let us
4 know. Let me know.

5 MS. SHELTON: I'd be happy to.

6 CHAIRMAN PERATA: Anyone here to speak in
7 support? Any in opposition? Please come forward.

8 Good afternoon Senator, Committee. My name is
9 Mark Norton. I'm an attorney licensed to practice law in the
10 State of California.

11 I do lifer hearings. I represent inmates. I
12 consider myself a constitutional lawyer, and as such, I believe
13 that an inmate should have the right to have his liberty
14 interest restored if indeed he qualifies under the statute.

15 I've had probably -- I don't know the exact
16 number, but may a couple dozen hearings before Commissioner
17 Shelton. I'd like to state for the record that I've not always
18 agreed with Commissioner Shelton's decisions. As a defense
19 attorney, that probably doesn't come as a surprise.

20 However, I do feel that Ms. Shelton -- what I
21 appreciate most about her is that she treats each inmate with
22 dignity and respect. I believe also that she gives out very
23 helpful advice to the inmates on what they can do to make
24 themselves more suitable for parole.

25 I would not support the confirmation of every
26 commissioner before whom I've appeared, but I do support the
27 confirmation of Ms. Shelton, with the caveat that she start
28 giving out more parole dates.

1 [Laughter.]

2 CHAIRMAN PERATA: Thank you.

3 MR. McQUILLION: Carl McQuillion again.

4 According to some statistics that have been
5 gathered out of 89 -- this was in the period from June to July
6 of 2006 -- out of 89 hearings at which Ms. Shelton denied
7 parole, 76 percent were multi-year denials. And many of those
8 were five -- four and five year denials.

9 And her and Ms. Sandra Bryson topped all the
10 other commissioners for multi-year denials.

11 I was listening to her speak about how she
12 recommends programs and stuff. And I haven't heard anything
13 about her disrespecting inmates or anything like that, but I do
14 get a lot of calls about multi-year denials. And a lot of these
15 denials are being given out, as she was saying, some of them
16 were one year denials, one year denials before, and then she
17 looks at the record and she says, "Well, this guy don't have
18 this coming. He hasn't done this; he hasn't completed this; he
19 needs to do this."

20 But this is often despite no matter how long this
21 inmate has been confined. He might have been in there 25-30
22 years already, and she wants to give out a four, five year
23 denial to this guy. He's got 4, 5, 10 vocational trades. He's
24 been programming ever since he's been in, self-help, everything
25 he could possibly do, jumping through all the hoops of the board
26 from hearing to hearing. And then he goes before her, and he
27 gets a four or five year denial. For what?

28 She was talking about the psych evaluations being

1 postponed, and being a cause of postponing of the hearings and
2 stuff. And that is true.

3 But in some of these postponements, these guys
4 are going up there. They're supposed to have their psych
5 evaluation at the board. They get to the board; they find out
6 the psych evaluation is not there. They don't get a 90 days
7 postponement to go to the next board. They get a year denial.
8 This is not a denial of suitability, but a postponement of a
9 year is a denial of suitability. It's the same thing.

10 So, you know, something needs to be corrected
11 seriously here.

12 The last thing I'd like to mention to you is this
13 thing about the psych evaluations. I've read a psych report
14 from a Dr. Camoley out of Corcoran, SASATO. And he's a
15 contractor.

16 I called down there and I said, "Do you work for
17 the Board of Prison Terms?" I got his secretary, you know. I
18 says, "Is he contracted with the Board of Prison Terms?"

19 And she says, "Well, no, but he's a contracted
20 psych."

21 And the report that I read was worth throwing out
22 the window. This guy, I don't know where he was coming from,
23 but it sounded like he was a hit man, you know. That's what he
24 was hired to do, is write a bad report. And reviewing other
25 reports that had been done prior with clinicals, and risk
26 assessment instruments and stuff, this guy got some pretty good
27 reports. He goes before this guy, and he gets this absolutely
28 atrocious report that isn't even worth talking about. But he

1 goes to the board, and they gave him a four-year denial based
2 upon this report.

3 So these hit men that they're hiring to be these
4 psychologists, you know, that's the way I see them, and that
5 they're hired to do one thing. It's to make sure that they got
6 information that they can use to justify denial of the parole.

7 And part of these tests are what they call a
8 tripartite. There's three instruments involved in these psych
9 tests. And one of these -- two of these instruments have no
10 dynamic elements involved. Only one of them has some dynamic
11 element consideration of what the guy has done. The other two
12 tests are based upon what he has done in the past: his crime,
13 his preconviction work, his childhood, all of those things that
14 don't change. And that forms the basis for providing a risk
15 assessment, you see. And if he's got some history, and these
16 risk assessments come up high on the static factors, the
17 dynamics don't balance it out. And so they say, "Well, you got
18 a bad report," because there's moderate or moderately high.

19 There's some things that are going on with this
20 board that needs some serious, serious change.

21 I would oppose.

22 CHAIRMAN PERATA: Thank you.

23 Yes, sir.

24 MR. MILLER: Thank you, honorable Senator
25 Perata, and Members of the Committee.

26 My name is Donald Miller. I work for two law
27 firms in Southern California, and a number of individual
28 attorneys who do parole hearings on behalf of lifers. I do the

1 litigation part for them, follow the cases in court.

2 I myself got my law degree while I was serving a
3 life sentence. I served four or five years too long because
4 although all the psychological evaluations said I was no risk
5 whatsoever, I kept facing commissioners that told me I was not
6 suitable for parole.

7 So now I'm a taxpayer. I'm off parole.

8 I've worked in this field for 20 years. I've
9 read over 1,000 transcripts of parole board hearings, including
10 about 50 of Commissioner Shelton.

11 I respectfully -- and those attorneys have
12 written letters -- we respectfully oppose the approval -- the
13 confirmation of Commissioner Shelton. And this has nothing to
14 do -- from everything I've heard, she's a wonderful person,
15 upstanding person with great moral character.

16 But this has to do with the qualifications.
17 First, there's three reasons. First, as you all are well aware,
18 the statute requires the Governor to appoint and the Senate to
19 confirm commissioners that represent a cross section of
20 California's community: economically, racially, gender, and so
21 on.

22 We have all but one or two of the last 40
23 appointments have been either law enforcement, which is most of
24 them, crime victims advocates, or former legislators, all of
25 whom are known to be predisposed, or most, to be anti-parole.
26 Maybe I'm wrong here, but to me the Executive Branch has a check
27 here by the Legislative Branch, so that the statute conforms
28 with what your predecessors passed.

1 So, my first objection is, she does not meet the
2 statutory requirement.

3 Secondly, I've read her bios. I've listened
4 respectfully. Being a -- supervising probationers is not a
5 qualification to protect public safety by determining
6 recidivism.

7 None of the members of the present board are
8 former psychologists, psychiatrists, or judges with any
9 qualifications to -- by education or training, to determine the
10 parole risk. So, my second objection is on qualification.

11 And our third objection is on performance. In
12 this respect, there have been some incorrect answers given, I
13 would respectfully like to clear up.

14 The Parole Board is now close to 4,000 hearings
15 behind. That's been determined in the Rutherford case in Marin
16 County. And the board has been ordered to come up with a plan
17 to catch up.

18 The problem is, the board is never going to catch
19 up. And the reason is, when the Senate -- when the Legislature
20 passed these statutes, they appointed nine commissioners. And
21 they also passed the Parole Determination Statute, which says
22 that once an individual is not a risk to public safety, the
23 board shall normally grant a parole date.

24 We don't need a parole board full of experts.
25 But when they go against the expert's recommendation, forensic
26 experts that the board hires to determine the parole risk, as
27 Ms. Shelton does in about 75 percent of the time, it's
28 arbitrary.

1 So, the third objection is based on performance.

2 If the parole statute says that a qualified
3 inmate shall normally be granted parole, but less than one
4 percent of those that are qualified paroles, which is the
5 situation now, the nine commissioners which were designed to
6 handle that are never going to catch up.

7 Secondly, I respectfully object to the statement
8 that was made that the two panel members have to be in 100
9 percent agreement. That's simply not the law.

10 Each panelist has to make up his or her mind
11 independently whether this inmate, this prospective parolee, is
12 suitable for parole. And that's another problem with Ms.
13 Shelton's hearings. They're always unanimous. There's an
14 agreement maybe ahead of time, maybe at the hearing.

15 What's the sense of having two panelists? When
16 the Senate passed the statute -- or amended the statute six
17 years ago to provide that two-person panels could be -- could
18 sit instead of three, so that the board might be able to catch
19 up, it devised a system for resolving split decisions. But
20 there are no split decisions in her cases. They're all -- and
21 that's not the law, what she told you.

22 Fourthly, the multi-year denials, of which she
23 hands out huge amounts, are to many inmates who are so close to
24 being paroled, that they have had three or four one-year
25 denials, they've accomplished everything they can accomplish.
26 Many, many psych evaluations saying they pose no more risk than
27 the average citizen.

28 And then they come before Ms. Shelton and get

1 slapped down for three or four years, and give up hope.

2 It's not just the inmates. Of the 25,000 lifers,
3 maybe 4-5,000 that should by law have paroled, but it's another
4 100,000 tax paying citizens who have done nothing wrong: their
5 children, their parents, and everybody in the community.

6 For the three reasons -- and one last thing is
7 the psych evaluations. I mean, this is a joke. These inmates
8 write to the board and beg for a psych evaluation in time for
9 their hearing, which they've waited two years for or so, so that
10 they don't get postponed. And the board doesn't pay any
11 attention to it, and they say, "Oh, we'll decide that at the
12 hearing." And then they come to the hearing, and there's no
13 psych evaluation, so they're put off respectfully.

14 And I have a great deal of respect for you
15 personally, but everybody I work for is unanimously opposed to
16 this candidate because it doesn't fit the statutory requirement.
17 There's no qualification and performance.

18 And I would like to leave you with another
19 thought, and I hope it doesn't upset anybody. But as you're
20 aware, the federal courts have ordered the federal government to
21 take over the Department of Corrections health care system
22 because they wouldn't follow the court orders.

23 There have been over 20 decisions chastizing the
24 board or the Governor within the last year, or year-and-a-half.
25 But the board hasn't changed its ways.

26 I respectfully suggest that if the Committee
27 doesn't disapprove those nominees that don't conform with the
28 statute, and things continue as they are, that the State of

1 California will lose control over who paroles and who doesn't as
2 well, because the federal government will eventually step in if
3 these state and federal court decisions are not followed. So, I
4 respectfully leave you with that.

5 I thank the Committee for an opportunity to
6 express myself.

7 I spent 20 years as a lifer. I obtained my law
8 degree while I was in prison, and I've worked very hard on this
9 subject for 20 years.

10 There are a majority of lifers that probably
11 should never parole, but there are four, five, or six thousand
12 that are being denied parole, even though they're no more of a
13 risk than I am. And they're all going to die in prison at an
14 enormous cost of \$40,000 or \$50,000 each per year to the
15 taxpayer. And it's not protecting public safety.

16 Please be sure we get commissioners who are
17 qualified and represent a diverse section of California's
18 economy and community.

19 Thank you.

20 CHAIRMAN PERATA: Thank you, sir.

21 Anything further?

22 You may want to just rebut or explain on the
23 multi-year denials. Go through your position again.

24 MS. SHELTON: With regards to multi-year denials,
25 two issues I need to address.

26 First, I would like to address the decision --

27 SENATOR CEDILLO: Can I ask you the question more
28 specifically, because I'm troubled by them. In part, it's

1 because of what I've heard, but I'm just troubled by them
2 because, just as a practice, as a procedure, as a policy, why
3 wouldn't you, if you just give somebody three years' work --
4 I'll just take it at the face, as you I said -- why wouldn't you
5 want to evaluate that on a year-to-year basis? Why wouldn't
6 want to see if they've done one-third of the progress?

7 It seems fair. It seems more responsible. It
8 seems more efficient. Why wouldn't you want to see if the psych
9 evals were available, the vocational training was available, if
10 the drug treatment programs or AAs were available?

11 It just seems to me not a good way to do this
12 type of business.

13 MS. SHELTON: There's probably pros and cons to
14 both of that.

15 With regards to psych evals, our new process
16 indicates that a psych eval will be effective for five years.
17 Under the current process, it's kind of hit or miss.

18 The inmates that I have worked with have
19 indicated that they'd rather be told the truth, because they
20 think that a year denial means that they're going to be able to
21 get out in a year. It's not looked at as a review process, like
22 you're indicating.

23 They have a review process through a documentary
24 hearing at the very beginning, and they're told what they need
25 to accomplish.

26 These hearings -- and maybe it should be looked
27 at in a different way. Maybe it should be a review process, not
28 a parole process, because when you say parole, they think

1 they're going to get out, whether it's a year, three, or five.
2 Maybe there should be a built-in review process on a more
3 frequent basis to determine if they're doing what they need to
4 be doing to get out.

5 SENATOR CEDILLO: You're not prohibited from
6 doing that?

7 MS. SHELTON: To have a review? A review is not
8 the same as a parole hearing.

9 SENATOR CEDILLO: I understand what you're
10 saying.

11 MS. SHELTON: But, you know, probation is all
12 about giving second chances, so is parole. People are on
13 probation as adults for three to five years. They get reviewed
14 all the time.

15 I would like to see, and what you suggest, I
16 think, is reasonable, that there be a review process built in.
17 Sometimes I don't see an inmate for an initial hearing until
18 they've been in prison for 15 years. And in that time, some of
19 them very dug some pretty big holes for themselves because they
20 haven't gotten good advice. So, it probably would be more
21 beneficial for a review process to be built in.

22 But multi-year denials with regards to parole are
23 realistic denials. I don't give them a multi-year denial too
24 often outside of Level IV prisons.

25 SENATOR ASHBURN: May I follow up,
26 Mr. President.

27 I want to be real specific about these denials.
28 During January to November of '06, you denied 300, and by

1 comparison the Chairman of the Board, Davis, denied 376.

2 Now, he granted one 127 reviews in one year. You
3 only granted 75 in one year. He granted 120 two-year reviews.
4 You granted only 90. Then you start to even out when it gets to
5 three, four, and five years.

6 What's he doing differently than you?

7 MS. SHELTON: We're probably at different
8 prisons. I'm at Pelican Bay, like I said, a lot of the time,
9 and again, also California Medical Facility.

10 Mr. Davis handles the southern part of the
11 state. And I haven't had opportunity to attend those prisons or
12 familiarize myself with them.

13 I handle prisons that are --

14 SENATOR ASHBURN: So, your answer is, the
15 difference in the facility --

16 MS. SHELTON: Yes.

17 SENATOR ASHBURN: -- and the programs that would
18 be available, and the nature of the crimes committed by the
19 inmates?

20 MS. SHELTON: Exactly.

21 SENATOR ASHBURN: And the severity of the --

22 MS. SHELTON: And I have that chart. Now, it's
23 what I was referring to earlier. You can't just look at the
24 numbers. You have to factor in the prison, the programs, the
25 inmates. There's a whole passal of factors to take a look at.

26 SENATOR ASHBURN: Thank you.

27 CHAIRMAN PERATA: This is apropos of nothing, so
28 I'll say it.

1 We've been pretty clear that we do not want to
2 see a parole board that is dominated by professional or career
3 law enforcement individuals.

4 The exception I do make is probation, because --
5 and this is just out of my own experience out of Alameda County,
6 and having friends who have done probation work -- there is a
7 much stronger emphasis on a cure than anything else.

8 And so, I actually look pretty positively on the
9 fact that you do have a background in probation.

10 It's a system that is deeply troubled. And I
11 think the only thing that might prevent the federal government
12 from taking over our prison system is the successes that it's
13 had in Iraq. But it's a deeply troubled system.

14 And I think parole is probably the linchpin to
15 improving the system. And I don't know whether people who've
16 spent time and come back to Oakland and Richmond, but fact of
17 the matter is our high rate of recidivism, the fact that we
18 violate people on the street just to get them off the street, as
19 opposed to any thoughtful mechanism, the fact that there is so
20 little in the way of providing for re-entry that would be a real
21 kind of re-entry program. That's where I think we need to bring
22 our numbers down.

23 Plus, we're a state that likes to lock people up.
24 We just don't like to pay for them.

25 The only way we're ever going to make changes, if
26 you see things in your world that could be improved upon, that's
27 the benefit of your career, then I would really encourage you to
28 step out and do that.

1 We should not be making laws based upon our
2 perceptions. It's much better if people like you, who have an
3 informed view, even if it appears to be riskier -- you know,
4 sometimes people take jobs like yours for reasons that are
5 unclear, and I'm glad you do, and you have ideas, but you don't
6 feel that it's appropriate to take the next step with those
7 ideas.

8 You do not seem like a shrinking violet, and I
9 would be just delighted that, with your background, and I know
10 there's a lot of different factors that go into every decision
11 that you make, but I bet you that if you wrote down, kept a
12 journal of the things that you'd like to see done differently so
13 that more people could be appropriately released, that there'd
14 be something in there for us to contemplate and give direction.
15 And I would encourage you to do that.

16 Again, I've said this repeatedly to everybody
17 else that's come to that position, I don't care if it's in a
18 brown paper bag. Don't mail it to the building in a brown bag,
19 because they'll take it out to the street and detonate it.

20 But I just encourage you to continue on in your
21 work.

22 How many grandchildren do you have?

23 MS. SHELTON: Four.

24 CHAIRMAN PERATA: Do you see them often?

25 MS. SHELTON: Not often enough.

26 CHAIRMAN PERATA: See, that's the problem.

27 MS. SHELTON: We just had a new one on December
28 20th, and he's back in Michigan, so I haven't seen him yet.

1 CHAIRMAN PERATA: I'll bet you your husband sees
2 a lot of these kids. He's got a lot of free time.

3 MS. SHELTON: He sees a lot more of the golf
4 courses, I'm afraid.

5 CHAIRMAN PERATA: You know, we could deny your
6 wife and really screw up your life.

7 [Laughter.]

8 MS. SHELTON: That's what he's worried about.

9 CHAIRMAN PERATA: We have a motion to approve.
10 Please call the roll.

11 SECRETARY WEBB: Cedillo.

12 SENATOR CEDILLO: Aye.

13 SECRETARY WEBB: Cedillo Aye. Dutton.

14 SENATOR DUTTON: Aye.

15 SECRETARY WEBB: Dutton Aye. Padilla.

16 SENATOR PADILLA: Aye.

17 SECRETARY WEBB: Padilla Aye. Ashburn.

18 SENATOR ASHBURN: Aye.

19 SECRETARY WEBB: Ashburn Aye. Perata.

20 CHAIRMAN PERATA: Aye.

21 SECRETARY WEBB: Perata Aye. Five to zero.

22 CHAIRMAN PERATA: Congratulations.

23 MS. SHELTON: Thank you, gentlemen. Appreciate
24 it. I won't let you down. Thank you.

25 [Thereupon this portion of the
26 Senate Rules Committee hearing
27 was terminated at approximately
28 3:12 P.M.]

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of February, 2007.

Evelyn J. Mizak
EVELYN J. MIZAK
Shorthand Reporter

APPENDIX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



APPOINTEE

PAUL R. CHABOT

COMMISSIONER, BOARD OF PAROLE HEARINGS, JUVENILE MATTERS

APPOINTEE BACKGROUND

Appointed by Governor Schwarzenegger, effective February 20, 2006
 Speaker, Campuspeak 2002—2005
 Senior Advisor/Policy Analyst,
 Office of National Drug Control Policy 1999—2006
 Program Advisor, Office of the Inspector General,
 Counternarcotics and Terrorism Programs 2001
 Program Director, U.S. Attorney's Office, Methamphetamine Unit 2002
 Police Officer, University of Southern California 1997—1999
 Judicial Officer, University of Southern California 1997
 Assistant Director, The Learning Center 1994—1997
 Congressional Assistant, Congressman Jerry Lewis 1995—1996
 Community Service Officer, California State University,
 San Bernardino 1993—1994
 Residential Advisor, California State University, San Bernardino 1993—1994
 Bachelor of Arts, Administration, California State University, San Bernardino
 Master of Public Administration, University of Southern California

DISCUSSION OF ISSUES AND POTENTIAL QUESTIONS

1. POSITION DESCRIPTION	3
2. CORRECTIONS REORGANIZATION CHANGES YOUTH BOARD.....	3
3. DECLINING WARD POPULATION	4
4. DIVISION OF JUVENILE JUSTICE PROGRAMMING.....	5
5. PAROLE DETERMINATIONS	6
6. LENGTH OF PAROLE IS INCREASING	7
7. QUESTIONS FOR MR. COMPTON	7
8. QUESTIONS FOR MR. CHABOT	8

SENATE OFFICE OF RESEARCH
Analysis for Senate Rules Committee
Confirmation Hearing



APPOINTEE

JOSEPH D. COMPTON

COMMISSIONER, BOARD OF PAROLE HEARINGS, JUVENILE MATTERS

APPOINTEE BACKGROUND

Appointed by Governor Schwarzenegger, effective February 24, 2006

Correctional Officer, Santa Cruz County Sheriff's Office 1986—2005

Driver, Dispatch and Patient Evaluation,

Coast Medical/Linda Home Care 1981—1986

Retail Sales, Montgomery Wards 1979—1981

POSITION DESCRIPTION

The Board of Parole Hearings has been comprised of 17 commissioners appointed by the governor. Twelve commissioners have heard adult matters and five have heard only juvenile cases. During the 18 months ending January 1, 2007, the five youth-side members of the Board of Parole Hearings were responsible for performing the following statutory duties, all of which pertain to persons who have been committed to the Division of Juvenile Justice of the Department of Corrections and Rehabilitation:

- Discharges of commitment
- Orders to parole and conditions thereof
- Revocation or suspension of parole
- Disciplinary appeals
- Reviews of civil commitment decisions made by the juvenile division, where the department has not made a request to pursue civil commitment, and the board finds that the ward would be physically dangerous to the public because of the ward's mental or physical deficiency, disorder, or abnormality

Offenders committed to the Division of Juvenile Justice have been adjudicated – not convicted – by the juvenile court, whose objectives include rehabilitating the young offender. Juvenile justice programs are intended to protect the public and at the same time reform young offenders through training, treatment, and education.

Effective January 1, 2007, commissioners named to hear juvenile parole cases and all their duties were transferred to the jurisdiction of the chief deputy secretary for juvenile justice in the Department of Corrections and Rehabilitation. All applicable regulations in effect at the time of the transfer are to remain in effect until any new ones can be adopted.

CORRECTIONS REORGANIZATION CHANGES YOUTH BOARD

The Youthful Offender Parole Board for many years was the paroling authority for wards committed by the juvenile court to the former California Youth Authority. But over the past three years the board has been shifted around the correctional bureaucracy. In the latest change effective

January 1, 2007, the youth members of the board became part of the state Division of Juvenile Justice.

The parole hearing board's responsibilities have included establishing the terms and conditions of parole for soon-to-be-paroled inmates and wards (youthful offenders in jurisdiction of the department's Division of Juvenile Justice), and determining whether parolees should be returned to an institution for parole violations. The Board of Parole Hearings has been comprised of 17 commissioners appointed by the governor, 12 hearing adult matters and 5 hearing only juvenile cases. On the juvenile side, three positions have been appointed and there are two vacancies.

In 2005 when the Department of Corrections and Rehabilitation was established in a reorganization, some correctional experts expressed concern that the relatively small juvenile offender programs would be overwhelmed by the larger adult system and programs for wards would start to operate more like those for adults.

Corrections Reorganization Changes Youth Board

- 1. Has shifting the bureaucracy affected the ability of youth-side commissioners to do their jobs?**
- 2. How will you measure whether the latest shift into the Division of Juvenile Justice provides for maximum efficiency and effectiveness?**

* * * * *

DECLINING WARD POPULATION

Over the past seven years, the number of wards in state facilities has shrunk from more than 10,000 to about 2,700. Now the governor has proposed further changes to the system, cutting the current juvenile population in state institutions by half. Under his budget proposal, by the middle of next year the governor would relocate about 1,340 youths, including nonviolent violators,

all female wards, and those convicted of drug and property crimes. They would become the responsibility of counties.

Declining Ward Population

1. If the size of the Division of Juvenile Justice is cut further, how will that impact the way you conduct hearings? Will it affect the time you are able to devote to hearings?
2. What do you expect to be the impacts of the latest proposed changes?
3. Wards currently in the state's Division of Juvenile Justice receive assistance through mental health, education, drug treatment, and other programs. How will the level of this assistance be affected if these wards are relocated to counties should the governor's proposal be enacted into law?
4. The governor's proposal, if enacted, would signal a significant policy shift. What role do you see the state playing in the future in juvenile justice?

* * * * *

DIVISION OF JUVENILE JUSTICE PROGRAMMING

In 2004 a settlement was reached in the Farrell lawsuit regarding conditions of confinement in Division of Juvenile Justice facilities that is intended to result in safer living conditions, decreased violence, increased programming, and an overall better outcome. Discussions regarding how to improve programs for youthful offenders, such as classroom and vocational education or substance abuse treatment, have taken place over the past two years. All parties agree that significant improvements must take place.

Division of Juvenile Justice Programming

1. What role have you played in recommending various programming improvements?
2. When you consider parole for a ward, how do you evaluate whether he or she is rehabilitated sufficiently? How are you able to assess the quality of programming the ward has received? And how do you determine the adequacy of the parole placement—such as a drug treatment program—for the ward?

* * * * *

PAROLE DETERMINATIONS

From March 2006 until December 11, 2006, Commissioner Chabot heard 319 parole consideration hearings. He granted 154 releases and denied 165. During the same period, Commissioner Compton heard 331 parole cases, granted release in 277 cases, and denied release in 54.

Parole Determinations

1. In your letters dated January 18, 2007, to the Senate Rules Committee, you both indicate that you spend about 30 minutes reviewing each file. Is that an adequate amount of time to gather sufficient background on a ward?
2. What is your approach to these cases and are there certain key points that you look for when you review each juvenile case file?

* * * * *

LENGTH OF PAROLE IS INCREASING

The Legislative Analyst's Office has reported that the time young offenders spend on parole has increased sharply over the past 10 years or so, and will continue to do so for the rest of this decade. In the early 1990s, the average length of stay on parole was about 16 months, compared with 21 months now. In three to four years, the Department of Corrections and Rehabilitation estimates the average length of stay on parole will reach 29 months.

Length of Stay is Increasing

- 1. What are the factors which account for past increases in the length of stay on parole for Division of Juvenile Justice wards and for the Department of Corrections and Rehabilitation's estimate that the average length of stay on parole will increase?**
- 2. What actions would you favor, if any, to address this issue?**

* * * * *

Question for Mr. Compton

- 1. In your January 18 letter to the Senate Rules Committee, you indicate that commissioners sometimes have reservations about placement recommendations for particular facilities. You go on to say, "...but the lack of outside treatment/placement options does not allow us a lot of choice." What do you suggest to address this issue?**
- 2. In the same letter, you cite lack of training of new commissioners in several responses. What could be done to improve training?**

* * * * *

Questions for Mr. Chabot

- 1. In your January 18 response to the Senate Rules Committee, you indicate that your job is to look at all the information before making a decision “and not simply rubber stamp the institutional recommendation” on parole cases. When making your decision, how do you balance the need for a safe and secure society with the rights of the ward?**
- 2. In the same response, you said you would “like to see greater oversight from the Division of Juvenile Justice” of community-placement facilities where wards are sent. You suggested that the division conduct in-depth, on-site reviews of these facilities. Have you made such a recommendation to the division and, if so, what was its response?**
- 3. In your January 23 interview with staff, you noted that wards have the right to appeal staff disciplinary actions to board members. You described this process as disjointed and noted that in some cases the alleged violation occurred six months earlier and the matter should have been heard in a more timely manner. What could be done to speed up this process?**

* * * * *

Prepared by Mark Gladstone

PAROLE CONSIDERATION HEARING INFORMATION
BY TOTAL HEARINGS, GRANTS, DENIALS, STIPS AND POSTPONEMENTS
FOR CALENDAR YEARS 1998 TO 2006

YEAR	1998	1999	2000	2001	2002	2003	2004	2005	2006
TOTAL HRGS	2,191	1,953	2,179	3,648	4,826	4,499	4,552	4,953	6,952
Grants	27	21	52	84	168	168	214	161	240
Total Denials	2,047	1,827	1,873	3,101	3,746	2,957	2,620	3,117	4,415
1yr	578	548	622	1,073	1,342	1,384	1,109	1,179	1,367
2yrs	737	675	631	967	1,182	869	861	961	1,449
3yrs	426	319	377	579	695	443	352	488	733
4yrs	216	186	194	321	330	177	222	277	501
5yrs	90	99	49	161	197	84	76	212	365
Stips	58	62	246	558	762	776	549	716	1027
Postponements	8	56	241	440	877	1,335	1,682	1,630	2,235

Date		Time		Location		Remarks	
1900	10/1	10:00	11:00	...	...	...	...
1900	10/2	10:00	11:00	...	...	...	...
1900	10/3	10:00	11:00	...	...	...	...
1900	10/4	10:00	11:00	...	...	...	...
1900	10/5	10:00	11:00	...	...	...	...
1900	10/6	10:00	11:00	...	...	...	...
1900	10/7	10:00	11:00	...	...	...	...
1900	10/8	10:00	11:00	...	...	...	...
1900	10/9	10:00	11:00	...	...	...	...
1900	10/10	10:00	11:00	...	...	...	...
1900	10/11	10:00	11:00	...	...	...	...
1900	10/12	10:00	11:00	...	...	...	...
1900	10/13	10:00	11:00	...	...	...	...
1900	10/14	10:00	11:00	...	...	...	...
1900	10/15	10:00	11:00	...	...	...	...
1900	10/16	10:00	11:00	...	...	...	...
1900	10/17	10:00	11:00	...	...	...	...
1900	10/18	10:00	11:00	...	...	...	...
1900	10/19	10:00	11:00	...	...	...	...
1900	10/20	10:00	11:00	...	...	...	...
1900	10/21	10:00	11:00	...	...	...	...
1900	10/22	10:00	11:00	...	...	...	...
1900	10/23	10:00	11:00	...	...	...	...
1900	10/24	10:00	11:00	...	...	...	...
1900	10/25	10:00	11:00	...	...	...	...
1900	10/26	10:00	11:00	...	...	...	...
1900	10/27	10:00	11:00	...	...	...	...
1900	10/28	10:00	11:00	...	...	...	...
1900	10/29	10:00	11:00	...	...	...	...
1900	10/30	10:00	11:00	...	...	...	...
1900	10/31	10:00	11:00	...	...	...	...

Senate Confirmation
Responses to Senate Rules Committee Questions
Paul Chabot, Commissioner, Juvenile Division
Board of Parole Hearings
January 18, 2007

Qualifications

The reorganization of the Youth and Adult Correctional Agency that took effect July 1, 2005 spelled out that commissioners hearing juvenile matters "shall have a broad background in, and ability for, appraisal of youthful law offenders and delinquents, the circumstances of delinquency for which those persons are committed and the evaluation of an individual's progress toward reformation."

- 1. What in your background has given you a broad knowledge of juvenile law offenders and delinquency? What in your professional background has prepared you to evaluate the parole readiness of youthful offenders?***

One of the most remarkable aspects in life is observing true positive transformation from an individual who has overcome adversity and made a lasting change to not only better themselves, but the communities which they once harmed. My lifetime of practice in working with troubled youths has provided a solid foundation to gauge the merit, truthfulness and risk associated with making such observations. I have a variety of experiences; professional, academic and personal, that has provided me with broad knowledge of juvenile law offenders and delinquency. These experiences include being a: recovering addict; reserve deputy sheriff; community policing officer; military officer; national motivational speaker and consultant; community coalition director; non-profit founder; senior drug policy advisor; youth mentor and counselor; judicial officer; drug counselor; gang expert and substance abuse expert; delinquent youth instructor; doctoral fellow (abd) in education (Ed.D); Delinquency Control Institute graduate (108th class from the University of Southern California) and guest lecturer; regional fraternity district governor with expertise in membership review; public administration scholar with degrees at the undergraduate and graduate level with specialized training in criminal justice.

My first experience with juvenile law offenders and delinquency began with my own very personal experiences of being a youthful delinquent making the wrong decisions in life. At the age of 12, I was placed in an inpatient drug treatment and lived with older youthful offenders and serious drug addicts. While many of my friends continued their destructive and criminal lifestyle, I found myself taking on positive roles; leading by example and sponsoring other young addicts at Alcoholics and Narcotics Anonymous meetings and speaking to youth around my city about gang violence and drug abuse. I never stopped learning or leading. Today, I have over 20-years of sobriety and very much credit my delinquent past for helping me make a positive difference in the communities we share.

Senate Rules Committee

JAN 18 2007

Appointments

Since 1995, I have served as a reserve deputy sheriff (first assigned to patrol, and later to the narcotics and gang details) with specialized training in community policing, juvenile crime and narcotics. This job put me on the front lines of observing youth crime and violence as well as the community risk factors leading some to a criminal lifestyle. Five years prior I volunteered as a Police Explorer and routinely met with troubled youth; some of whom became successful community leaders.

Other experiences in assessing and evaluating parole readiness include serving as a Judicial Officer examining conduct/criminal law violations and creating educational plans for campus re-entry. This involved a great deal of expertise in understanding delinquent behavior and assessing proper intervention techniques to educate youth on how to make better life decisions. Later, I served as a police officer for the University of Southern California (USC) and was immediately promoted to the position of community policing specialist working with the surrounding neighborhood leaders to reduce criminal activity. I routinely met with youth in the surrounding community and provided mentorship to those who were willing to listen. I also facilitated a program called "Kid Watch," and facilitated weekly community policing programs which directly related to measurably reduced criminal activity. This resulted in the Chief of Police bestowing upon me the department's highest medal for service – the Meritorious Service Medal.

Further strengthening my foundation for working with youthful offenders, I graduated from USC's Delinquency Control Institute (DCI), an intensive 2-month full-time academic program for executive level law enforcement personnel which focused solely on youth crime and addressing community risk factors in delinquency (I now teach a portion of these classes). This resulted in a deeper understanding of the many facets involved in youthful criminal activity. Today, I serve as a guest lecturer to the DCI students.

In 1999, I was selected as a White House Presidential Management Fellow and served under the Clinton Administration assessing law enforcement, justice and drug control matters. I was later promoted to Senior Advisor under the Bush Administration and remained on White House staff through 2005. My experiences in examining youth crime were further enhanced. Specifically, I was responsible for a variety of domestic drug programs with relevance to the Commissioner position which include: DARE (Drug Abuse Resistance and Education – for youth); GREAT (Gang Resistance Education and Training – for youth); Drug Free Community programs; Drug Court programs (both adult and juvenile); Drug Endangered Children's Program; domestic gangs; and a variety of youth anti-drug initiatives and campaigns. My travels took me to youthful offender placements and programs around the Nation. I was the sole staffer with responsibility for California and traveled the region meeting with law enforcement, prevention, education and treatment professionals creating community coalitions and initiatives. Additionally, I served on assignment with the State Department, Office of Inspector General assessing narcotic programs and with the U.S. Attorney's Office in Los Angeles where I developed the President's National Methamphetamine Strategy

and Action Plan, and later with Colin Powell's State Department, assessing a variety of issues, including: human trafficking, international youth crime and narcotic programs.

My military service has greatly enhanced my abilities to assess people, programs and initiatives, beginning in the Pentagon on the Joint Chiefs of Staff, during the time period of September 11, 2001, where I was commissioned by the President as a Reserve Naval Intelligence Officer. Here I was thoroughly trained on assessing, analyzing and evaluating a variety of issues and providing direct recommendations affecting national security. As an officer, I led teams of sailors and was charged with evaluating individual abilities. This continues today. I have since been promoted twice with even greater responsibility for assessing individual success. This experience is valuable to my position on the Board. The Division of Juvenile Justice (DJJ) has a unique program in which trusted wards are allowed to work along side navy sailors and learn diving trades. I can easily relate to the training these wards experience, and gauge their future potential for success, as well as provide mentorship to those who are successful in the program.

I was a professional speaker (www.paulchabot.com) and traveled to over 40 states speaking to youth and young adults on a variety of topics ranging from substance abuse, community service, domestic violence, leadership, crime/gang trends, and career guidance. I met with troubled youths, gauged their potential for future success and guided many in careers of public service. I later founded the Inland Valley Drug Free Community Coalition, which brought together twelve sectors of the community (teachers, youth, parents, doctors, law enforcement, mental health professionals, business leaders, legislatures, students, media, etc.) to serve on a board and help reduce gang and drug violence within our region of the county. I later founded a nationwide non-profit, the FreeStyle Foundation (www.freestylefoundation.org), which supports and promotes substance-free living initiatives while focusing state initiative efforts on those who make poor choices in their youth.

I have experience managing a tutoring facility and providing personal development to challenged youth. I created educational testing programs, academic tutorials and mentored youth within this facility while providing parents with critical feedback to further the development of their children. I was able to gauge individual deficiencies and design critical measures to both monitor and improve one's potential not only in the classroom, but also as a positive contributing member of their community. A number of these youths had delinquent pasts and were able to turn their lives around.

Additionally, I serve a district governor (volunteer) for a national fraternity, overseeing 15 fraternity chapters in California. I interact with these young adults as their senior mentor and ensure their organizations maintain expected standards while evaluating their potential for future success. A portion of my responsibilities involves selecting successful candidates to participate in national leadership academies. I also conduct

membership reviews; a process of removing members who significantly fail to abide by rules and obligations.

My undergraduate and graduate degrees are in public administration. I'm currently completing my doctoral dissertation in education (Ed.D) and Executive Leadership. The combination of these two disciplines is applicable to understanding educational/treatment systems and structures within publicly led organizations. The combination of personal, professional, educational and volunteer experience has strengthened my ability to evaluate parole readiness in youthful offenders. I understand the serious nature of crime, the effect to victims and families, as well as the trauma caused to communities and to the wards themselves. I find that more often than not, I can relate to the wards and they can relate to me. This foundation allows me to participate in one of the most important aspects of public service: determining parole readiness of youthful offenders; protecting the community from those who purposely continue to resist transforming their lives; and mentoring those who are willing to better themselves.

2. Please provide a brief statement of your goals. What do you hope to accomplish during your term on the Board?

Overall, I would like to develop a pattern and history of decisions that have contributed to the rehabilitation of wards and prevented further victimization to the community while continuing to work hard to fulfill the obligations assigned to me, and to uphold the duties and integrity of the office. Specifically, I would like to accomplish the following: 1) implement modern technology to better facilitate hearings and remove redundancy that occupies valuable hearing-time; 2) establish operating procedures for numbers of hearings held per calendar day; 3) assist with the training of new Commissioners; 4) identify standardized measures in assessing wards ability to participate in hearings; 5) improve the ward's first annual review hearing by adding quarterly, in-person hearings during the first year experience; 6) improve communication and coordination of victim services; 7) implement quality control and inspections of ward placement facilities and outpatient programs; 8) participate in the implementation of new programs; 9) improve drug-testing procedures; 10) develop domestic violence training into treatment curriculum (both in DJJ facilities and outpatient programs).

Farrell Lawsuit

Two years ago, the administration reached a landmark settlement in the Farrell lawsuit on the conditions of confinement in juvenile facilities run by the state. The Division of Juvenile Justice intends to implement a broad array of reforms, including creating smaller living units, improving education and mental health services and bolstering safety.

3. *What is your understanding of the time line for Farrell implementation and when you could begin to see wards appearing before you who have undergone the treatment regimen prescribed by the settlement?*

I have received briefings from DJJ leadership on this matter and have been assured that the agency is fully cooperating with the treatment regimen prescribed by the settlement and that DJJ has begun to implement these changes and continues to update the Board on improved living arrangements and increased ratio of staff to ward. From briefings I have observed, DJJ plans to implement these objectives in 2007.

DJJ's expected deadlines for 2007 include:

- N.A. Chaderjian will continue its conversion to a fully specialized treatment institution and will complete the transition by June 2007;
- The first Core Treatment Facility will be established, with the first living unit coming on line by March 2007, and the full facility conversion being completed by June 2007;
- Four Behavior Treatment Programs, located in Southern California, will be fully established by June 2007;
- Two Behavior Treatment Programs, located in Northern California, will be fully established by June 2007;
- The first Re-entry Unit will be established at the Core Treatment Facility by June 2007;
- Risk Needs Assessment will be implemented by June 2007.

Due to DJJ's deadlines extending into 2007, a number of wards approved for parole prior to the completion dates of the various Farrell aspects will not have benefited from the changes. However, due to the ongoing implementations occurring around the state, a number of wards appearing for parole consideration hearings may have come from an institution in Farrell transition, and therefore, would have been exposed to these institutional changes.

Training

Under the reorganization, new commissioners are supposed to undergo a minimum of 40 hours of training within 60 days of appointment and annually thereafter.

4. *Please describe your initial training, including content and details of who provides the instruction and the length of the sessions.*

My initial training consisted of two full weeks of on-the-job training. My instructors included experienced Commissioners, retired annuitants, DJJ staff, BPH executive staff, parole agents, institutional staff and board hearing coordinators. Additionally, I

performed off-duty training through an additional 40 hours of home study which largely consisted of reading through volumes of material and open source research found on academic websites and posted on the DJJ website. Training continued at the monthly Commissioner meetings, for a half of a day, and was instructed at BPH Headquarters by the Executive Officer and agency staff. Topics have included: ward programs; vocational training; mental health; medical; parole services; facility tours; placement tours; identifying physical and learning disabilities among wards; Armstrong ruling; Valdivia ruling; SB459; Farrell lawsuit and expected changes; Title 15; types of hearings and hearing protocol; sex offender counseling and treatment; anger management; victim issues; substance abuse and related programs; schooling; levels of housing; ward-work programs; parole expectations; restitution; Morrissey hearings; understanding psychological, educational, and other assessment tools and analyses; conducting secondary level DDMS; types of board orders; annual reviews; discharges; detention orders; sexual harassment; board room safety; and state vehicle operation.

Morrissey (1972 court case requiring parole boards to provide due process) training consisted of approximately eight hours of one-on-one and classroom training, accompanied by another 40 hours of hearing-observation. Additionally, BPH staff provided updates at the monthly commissioner meetings. Further, I met with both board hearing coordinators and state appointed attorneys (representing wards) for additional briefings. Within the initial block of Morrissey training, specific attention was given to a multitude of areas, including the Armstrong lawsuit (ability of ward to participate due to mental or physical disability) and Valdivia (court ruling found that delays in the revocation process violated due-process). The Morrissey training binder is approximately two inches thick and contains information used to train State-appointed attorneys. While Morrissey hearings can be the most complex hearing a commissioner conducts, the training was superb and fully allowed for a smooth transition from trainee to hearing officer. The continued routine updates are relevant and helpful.

Ward treatment/programs consisted largely of one topic per hour. Touring of facilities lasted between four to eight hours, and during tours, additional learning took place through interaction with staff and wards. Legal issues and cases were self-paced and briefed by staff, then reviewed individually. At the conclusion of the initial training period, the Commissioner then observes actual hearings (with other Commissioners, board representatives and/or retired annuitants who act as mentors/teachers) for another 40+ hours and slowly integrates into the process until the Commissioner is comfortable with the process.

5. Do you receive guidance on the most effective strategies in dealing with wards, witnesses and attorneys when conducting a hearing? Do you believe the training has prepared you adequately for the job?

Yes, I received guidance on effective strategies in dealing with wards, witnesses and attorneys when conducting a hearing. This instruction was provided during the initial

block of instruction upon my appointment, and was reinforced during another 40 hours of observing hearings with wards, witnesses and attorneys. Additional training occurred later, on the job, through meetings with attorneys and legal affairs staff. Follow-up training occurred in December of 2006, at BPH headquarters. Board Hearing Coordinators, present at all Morrissey hearings provide guidance, if needed, on-site. Parole Administrator III's provide the same service, if needed, at parole consideration hearings. I do believe the training has adequately prepared me for the job.

6. *How much of the training you have received focuses on research regarding the most effective intervention strategies for ward treatment programs?*

A significant amount of training I have received both pre and post appointment focused on effective intervention strategies for ward treatment programs. As a graduate (and lecturer) of the USC's Delinquency Control Institute, (also attended by CYA staff), I have broad instruction on such intervention strategies for wards. Additional learning occurred during my tenure with the Federal government analyzing a variety of nationwide treatment programs and performance based intervention methods. Further, as a police officer, my academy and advance officer training instructed on these areas. My doctoral work in education discussed ways in which individuals learn and how to facilitate successful programs for diverse populations. I attended a variety of national conference workshops which instructed on successful treatment programs and intervention strategies.

Board training further reinforced this knowledgebase through the sharing of DJJ efforts to improve the quality of its current intervention strategies and ward treatment programs. I routinely meet with institutional staff, including psychologists and psychiatrists who share their expertise in these very areas. Interestingly, I have found the best data coming from successful parolees. At the conclusion of a hearing in which a parolee has been granted an honorable discharge, I take advantage of that opportunity to have that person help me understand, from their perspective, how they were "able to do it;" so I can continue to learn and understand what helped them, both in the institution and on parole, to be a success.

7. *When you consider parole for a ward, are you trained regarding criteria for measuring preparedness for return to the community? How do you determine whether he or she is adequately rehabilitated? How do you assess the quality of programming the ward received?*

Yes, Commissioners are trained to examine a variety of indicators to gauge parole readiness during a parole hearing. Commissioners examine a multitude of documents and testimony to assist in this process, which include: program/treatment progress (in a variety of areas, and, if applicable to ward, may include: substance abuse; gangs; victims; parenting; anger management; etc.), staff/clinical reports, disciplinary reports/institutional misconduct, staff recommendation, victim impact statement

(if provided); law enforcement/district attorney/court response (if provided); placement locations/programs; educational achievement (if available to ward); psychological and psychiatric reports (if applicable); nature of offense; previous criminal history; prior parole experience; ward's presentation; completion of DNA samples (if required); gang association (if applicable); threat to the community/individual/self (if applicable); institutional employment/work (if applicable); support letters; extent of involvement in commitment offense; prior history of delinquency or criminal conduct including sustained petitions and/or convictions; involvement with dangerous or deadly weapons; violence and injury to victim(s); behavior or adjustment while in custody; attitude towards commitment offense; substance abuse; staff evaluation; available confinement time; maturity and level of sophistication; motivation of the ward and prognosis for success for failure; multiplicity of counts of the same/related or different offense; availability of community-based programs and the ability to function in the same under parole supervision without danger to the public; mental or emotional injury to the victim; vulnerable victim (aged or handicapped). These criteria are instructed in the initial training curriculum and a copy of Title 15, SB 459 is provided to the Commissioner which also details the same criteria.

Assessing the quality of programming is based on the presumption that if DJJ staff indicates a program is successfully completed, then that ward has successfully met the required treatment outlined by DJJ staff prior to appearing for a parole hearing. The quality of programming can often be assessed by observing progress made by wards at parole consideration hearings, as well as aftercare while on parole.

I'm a proponent of research based education and treatment which is strengthened by performance measures of effectiveness. The overall effectiveness of the journey from institution to the conclusion of parole can best be assessed by determining the percentage of wards receiving honorable, general or dishonorable discharges. My research in this area (based on 892 DJJ parolees), assessing these factors, showed that 12% of these parolees received honorable discharges while 69% (615 DJJ parolees) received dishonorable discharges. Most of those receiving dishonorable discharges were due to new law violations which occurred after their release to parole. If the overall effect of DJJ is to rehabilitate offenders, then one would expect a higher number receiving honorable discharges at the conclusion of their parole service. DJJ should evaluate what types of crimes are being re-committed and better address these risk factors in the institutions and in parole services. I look at institutional success and elimination of risk to the community for parole consideration, but I also look at DJJ's overall effectiveness, after the fact, by measuring how successful DJJ is at rehabilitating the ward so that he or she grows into a successful citizen. These are the measures I use to assess the quality of the programming the ward received.

Organization

Under the law, effective January 1, 2007, all Board of Parole commissioners named to hear juvenile parole cases and their duties will be transferred to the jurisdiction of the Chief Deputy Secretary for Juvenile Justice.

8. *As you prepare for this transfer, what is your understanding about to whom you are now responsible? Have you discussed what, if any, relationship the youth board will continue to have with the adult board?*

It is my understanding from both Senate Bill 737, and meetings with DJJ and BPH that as of January 1, 2007, the Youth Commissioners will now be responsible to the Division of Juvenile Justice and that our relationship with the adult board will cease on that date. The Chief Deputy Secretary for Juvenile Justice informed the Board in December that he was exploring the option allotted to him, by the Secretary (of CDCR), to appoint an Executive Officer of the Board to act in a similar fashion as the BPH Executive Officer. Ultimately, Commissioners are responsible to the citizens of California, the safety of the public and the oath we each swore to uphold.

Hearings

9. *For parole consideration hearings or annual reviews, how do you balance the need to examine a ward's file prior to the hearing with the need to conduct eight or nine hearings scheduled in a single day? On average how long does it take to read the file before the start of a hearing?*

Each file is handled on a case-by-case basis and the priority is always to fully review and understand the material in the files prior to conducting the hearing. Once this has occurred, the hearing commences. To facilitate this process, Commissioners often bypass breaks or lunch and work through an entire day to meet the goal of hearing the listed cases.

On average I spend approximately 30 minutes reviewing a ward's file prior to a hearing. This is usually enough time to review the file, thereby providing background and insight relevant to the process of the parole hearing. Annual reviews (usually conducted while on parole) largely occur as "non appearance" hearings and in these matters, the file is reviewed, along with the staff's report and recommendation. In the future, annual reviews should last longer as I often board-order a ward to appear for his first annual review so they can benefit from the process and information. Wards appearing in an institution for their first or last annual review require a Commissioner be present. In these cases, the entire file is reviewed; however, the Commissioner is a participant only in these hearings while DJJ facility staff (parole agent III, psychologist, ward's

agent, and educational specialist), lead the hearing. Unlike annual reviews occurring while on parole, the majority of institution annual reviews are attended by the ward.

10. How do you balance the recommendations of a parole agent with your own reading of a ward's case for parole? What weight do you place on the advice of the staff who may be present at the hearing?

In all hearings I conduct, the parole agent or agent representing the case/ward is asked to provide feedback, opinions and a recommendation. In many circumstances, the staff providing the recommendation has worked with the ward for a period of time allowing that staff member to provide significant information regarding the ward's progress. In other cases, the staffing agent has limited personal knowledge of the ward due to a variety of factors (new agent, transfer of ward, substituted agent). While the ward's file provides relevant background and history, including progress in treatment and training, the staff's verbal input at the hearing can help answer questions that arise in the hearing which may not be found in the written reports. Therefore, I do fully consider their input prior to making a hearing decision and find the agents to be very well equipped in providing the Board with relevant and significant information. They are partners in this process. However, it should be noted, that I have not sat on a board in which the institution was recommending anything other than to "parole." I have found through conversations with institutional parole agents, at times, their requests for additional time for treatment/training have been denied by supervisors thereby placing that agent in a precarious situation at the hearing when "representing the ward." Therefore, while I clearly appreciate the advice of the agent making the recommendation, it is my job to look at all of the information before making a final decision and not simply rubber stamp the institutional recommendation.

11. When you recommend that a ward be paroled to a particular treatment facility upon release, how familiar are you with the facility? Do you regularly visit outside treatment facilities, and how do you assess their quality?

I'm familiar with the facility types used as treatment placements in the region of the state that I cover (southern). I'm also familiar with many of the facilities themselves based on personal visits I have made to these locations. Yes, I do regularly visit these outside treatment facilities; however, I do not assess their overall quality as that is conducted by the field parole agent who inspects the location prior to a parole hearing and provides the Commissioner with his/her assessment of such placement. Additionally, in my previous experiences (police officer, community policing specialist, policy advisor, professional speaker, and recovering addict) I routinely traveled to treatment facilities in California and around the nation. This foundation helps me to identify with facility staff and parolees. I would, however, like to see greater oversight from DJJ of these placements by conducting in-depth, on site, reviews. This type of an assessment appears to be underserved and in need of DJJ attention.

12. When you recommend that a ward be given a drug treatment program or be allowed to take college courses, do you or anyone at DJJ follow up? Does someone from DJJ tell you if your recommendation is followed?

The Commissioner assumes that once he/she has board-ordered a treatment and/or training item (drug treatment), that the institution in which that ward is housed will then apply the Commissioner's recommendations. DJJ does not provide follow-up by advising the Commissioner if their recommendation was followed. This is a very good idea and I will ask DJJ to institute a process of informing Commissioners. In regards to college courses, I do not board-order those so as not to hold up their parole consideration date. However, having pursued a Doctorate of Education (Ed.D), I'm a firm believer that those willing, should be given every opportunity to pursue higher education and I do, very often, encourage wards and those paroled to get a college degree.

13. CSAS (Comprehensive Adult Student Assessment System) is a system that measures the functional skills in reading and mathematics for wards. As you review scores on this test to determine whether a ward needs an attorney how recently does the test need to have been given to be considered a valid indicator of competency?

This is a matter which has been a recent discussion between DJJ and the BPH. While the Armstrong ruling states that one must have a fourth grade reading level to participate without representation, DJJ has recently provided guidance to institutions noting that wards who do not possess a CASAS of 215 or higher, shall be screened for attorney representation. Erring on the side of caution, I had concurred with DJJ and ordered an attorney for a number of hearings. However, after recent training in December of 2006, the Commissioners were instructed to abide by the Armstrong ruling. DJJ states that the CASAS should be given every 6 months. Usually students progress within six-months and significant changes in academic performance are noted. Therefore, a CASAS score of no more than six-months old is preferred.

I would like to note that while CASAS is used as a local academic assessment to determine progress, the State of California uses the High School Exit Exam (given once per year with a passing score of 350) to determine proficiency for graduation. This is important because if a student passes the High School Exit Exam at any time, the CASAS is then dropped and the High School Exit Exam scores are used. For example, if a student receives a low score on the CASAS but then takes the High School Exit Exam and passes, then the High School Exit Exam score is used. In cases where a ward has not passed a High School Exit Exam or scores below 215 of the CASAS, the option of assigning representation is then explored.

14. Do uniform criteria exist for parole readiness or appeals to time adds to ensure consistency in how wards are treated?

Commissioners look at two key critical components for parole readiness: 1) rehabilitation, treatment and training progression; and 2) risk to the community. Appeals criteria are outlined within DDMS guidelines and the scope of the process is less than a parole hearing. In a DDMS hearing, a Commissioner is simply looking at one of four appealed areas listed by the ward on an appeal form, and then makes a decision based on evidence/testimony. Therefore uniform criteria do exist although each case is handled on a case-by-case basis. It should be noted that Commissioners do not add time. That option was removed from the Commissioners discretion prior to my arrival.

Juvenile Justice Programming

15. Do you have the opportunity to observe program delivery at DJJ facilities? If so, how often does this happen?

I have found time to observe program delivery at DJJ facilities. The standard way of familiarizing myself with programming available to wards has been through visiting with workers and observing sessions in the institutions. I have done this time after time and, oftentimes, unexpectedly. It's a vital part of seeing the "whole picture" and understanding the process in which makes up the treatment/training curriculum. Additionally, staff has provided institutional programming updates at our monthly Commissioner Board meetings.

Time Adds

The Division of Juvenile Justice may add time to a ward's length of stay in an institution for disciplinary purposes. The Board of Parole considers disciplinary appeals. Christopher Baird, part of a team of national experts who reviewed the Division, earlier this year concluded that in 2005 male youth in Division facilities on a new commitment had an average of about 8.2 months of time adds. With an average length of stay on a new commitment of just over 36 months, time adds make up about 23 percent of the time young men stay in Division facilities.

16. What are your thoughts on the factors causing increases in the lengths of stay for DJJ wards and for increases projected for the near future? Should action be taken to address this issue? If so, what?

Yes, I believe action should be taken. It appears that three factors are increasing the length of stay of a DJJ ward; disciplinary (gang fights and drug usage in the DJJ facility

are common), program failure (failing to complete sex offender therapy, for example) and parole revocations (arrested for law violations while on parole). A large amount of the disciplinary time-adds given by DJJ staff involves gang related activity, largely consisting of fights. Another large area of disciplinary activity involves positive drug tests by wards, or DJJ staff finding drugs in the wards possession/room.

Observations: Staff appear to add-time to a parole date if a ward has recent DDMS (fighting, drugs, etc), or has failed a component of their treatment/training. However, a large number are given warnings, without time adds. A high number of wards appear to violate their parole conditions or commit new crimes while on parole and are often brought back into a DJJ facility (if not to a county jail or state prison), thereby increasing their "length of stay." Recommendations: 1) increase drug testing; 2) improve drug treatment programs; 3) improve drug detection methods in the facilities on visitors (whom wards state bring in the majority of the drugs); 4) improve gang classes for wards; 5) adhere to a dress code that does not tolerate gang attire (shaved heads, sagging pants); 6) prosecute hate crimes and those in possession of weapons and drugs; 7) separate the youth from the adults (ages 18-25) and program towards their age groups and/or mental capability.

17. What has been your personal experience in reviewing ward disciplinary appeals? Can you provide examples of when and why you have overruled a time add decision by the division and, conversely, when you have upheld a time add decision by the division?

I have reviewed a small number of disciplinary appeals; therefore, my experience in this area is minimal. However, I can provide examples for both situations. In one such case where I upheld the ward's appeal, I found that the results of a drug test showed "possible dilution" and the creatine levels used to show dilution were marginal. The cutoff level was very close to a level resembling normal human urine. In another case, I denied an appeal based on evidence showing that a prison-made weapon was found hidden in the bed of the appealing ward. The ward did not share a room with any other ward and the weapon was found in his room.

18. Commissioners are responsible for an annual review where a ward's progress is examined. What are the benchmarks you look for in this process? What additional information would be helpful to make the assessment?

Two primary types of annual reviews exist: the institutional annual review and the parole annual review. Within the institution, Commissioners act as participants, along with an institutional board in reviewing the ward's first year of progress and their last year of progress prior to their first parole consideration date. Benchmarks for reviewing the ward's first annual review (in the institution) are limited based on the fact that the ward is appearing so that they can be advised of their progress and what they need to

continue to work on in order to be parole ready (thereby creating benchmarks for the ward).

Generally, I look for progress made in treatment, training and education as well as positive behavior. A review of the file is conducted to gauge staff comments for progress. The last annual review is very similar in its format to the first annual review and also requires a Commissioner's presence. It is in this last annual review that true progress should be noted if expectations are being met. Similar benchmarks exist in this phase: progress in treatment, training and education, understanding of the criminal offense and plans in place to continue to advance through institutional programs.

The ward's file provides both breadth and depth of information based on staff comments and a variety of reports which may be included to gauge the ward's positive momentum. Additionally, the ward's institutional behavior is reviewed. This is often the last review the ward receives prior to their parole consideration hearing. Generally speaking, one would have different benchmarks based on their commitment offense (i.e. sex offense, gang related violence, property crime, arson, murder, etc.) as well as other areas under treatment like mental-health concerns, substance abuse history, etc. While general benchmarks are helpful, one's expertise, compiled with staff observations allow for an in-depth discussion at the last annual review. It can also provide the ward with reminders of what benchmarks must be achieved in order to be parole ready.

The other type of annual review occurs while one is on parole. A variety of benchmarks are used in this case. However, each case is handled separately based on special conditions of parole added at the time of their parole. More general benchmarks include the following: no criminal activity; obtaining a full-time job or pursuing school/college; compliant with agent's requests; abiding by general conditions of parole; paying down victim's restitution; completing required community service; agent's appraisal of ward's activity/behavior; attending required counseling/treatment programs; successful completion of electronic monitor, etc.

In the future, I would very much like to see a change in the annual review process conducted during the parolee's first year of parole which may enhance our benchmarks. Because a number of parolees end up back in DJJ facilities, county jail or state prison, it would be more beneficial to conduct required, in-person, reviews with the parolee, and to have this occur during their first year, at intervals of 3 months, 6 months, 9 months, and 12 months. The longer a parolee remains successful on parole, the further apart the duration of the incremental reviews. This closer level of attention and supervision may help decrease the high level of recidivism and increase the number of honorable discharges (success stories). These types of benchmarks have proven very successful in outpatient placements (Phoenix House) or outpatient community drug programs (Narcotics and Alcoholics Anonymous), which tend to have the highest success percentage when compared to other programs. A successful first year on parole is essential to their continued achievements.

Senate Confirmation
Responses to Senate Rules Committee Questions
Joseph D. Compton, Commissioner, Juvenile Division
Board of Parole Hearings
January 18, 2007

Qualifications

The reorganization of the Youth and Adult Correctional Agency that took effect July 1, 2005 spelled out that commissioners hearing juvenile matters "shall have a broad background in, and ability for, appraisal of youthful law offenders and delinquents, the circumstances of delinquency for which those persons are committed and the evaluation of an individual's progress toward reformation."

- 1. What in your background has given you a broad knowledge of juvenile law offenders and delinquency? What in your professional background has prepared you to evaluate the parole readiness of youthful offenders?***

For approximately 20 years, my profession was in adult corrections for the County of Santa Cruz. Although it was "adult" corrections, a large percentage of the population in our facilities were of a similar age to the wards committed to the Department of Juvenile Justice (DJJ) (ages 18-25). I had direct contact with these individuals; I dealt with them through all phases of their incarceration. I was involved with their initial booking, placement assessment, housing, programs, discipline, conflict resolution, and eventual release or transfer. I have observed first hand the destructive effects of substance abuse, gang participation, family neglect, poor decision making, untreated mental health issues, and certainly one of the worst "institutionalization."

I personally know people who have been rehabilitated. Who through treatment, support, and a renewed faith in themselves, have turned their lives around. I am no expert in providing the treatment necessary, but I believe over the years I have developed the ability to recognize a true commitment to change. I feel this experience has prepared me to evaluate an offender's readiness to progress from his or her in-custody treatment to their participation in the next phase of treatment; parole.

- 2. Please provide a brief statement of your goals. What do you hope to accomplish during your term on the Board?***

Throughout my career in adult corrections, while dealing with what has become known today as "career criminals," I believed that these individuals deserved better. I felt that they could have turned out differently, if only their problems had been treated earlier. My goal is to do my best to help facilitate this treatment in the young offenders I deal with. What I hope to accomplish is to be part of the system that helps turn these lives around, to provide an early intervention to prevent this waste of potential.

Senate Rules Committee

JAN 18 2007

Appointments

Farrell Lawsuit

Two years ago, the administration reached a landmark settlement in the Farrell lawsuit on the conditions of confinement in juvenile facilities run by the state. The Division of Juvenile Justice intends to implement a broad array of reforms, including creating smaller living units, improving education and mental health services and bolstering safety.

3. What is your understanding of the time line for Farrell implementation and when you could begin to see wards appearing before you who have undergone the treatment regimen prescribed by the settlement?

I have been at several meetings in which the goals of the Farrell lawsuit have been discussed. These discussions were somewhat broad in nature. Whereas, the objectives of more individualized treatment, smaller living/treatment units, and a higher staff/treatment team ratio to the number of wards were clear, the actual implementation was left somewhat flexible due to staffing issues, facility needs, and a commitment to work out as many of the potential problems as possible prior to implementation. It is my belief that we should start seeing wards who have benefited from this new policy, hopefully, in the early to mid months of the current year.

Training

Under the reorganization, new commissioners are supposed to undergo a minimum of 40 hours of training within 60 days of appointment and annually thereafter.

4. Please describe your initial training, including content and details of who provides the instruction and the length of the sessions.

First, let me say that I am certain I could have benefited from more training prior to performing my duties as a Board Commissioner. This is a very difficult and important job. With that said, I would also like to say that the Board of Parole Hearing (BPH) staff did an outstanding job in providing as much training as they possibly could in the limited time available. I was able to not only benefit from the technical advice of the senior Board Members at that time, Commissioners Chuck Supple and Joyce Arredondo, my training coordinators, Shelly Jones and Stephanie Rodriguez, also arranged for me to attend and observe as many hearings as possible. I received training on how to locate and evaluate information in a Ward's file; on ACT (available confinement time), and age expiration; hearing procedures, executive sessions; Board Categories, and more. I was additionally provided training by James Farris on the different forms used during Parole Revocation Hearings.

In addition to the initial training that was provided following my appointment, I, along with my fellow Commissioners, Board Reps and Board staff, received 40 hours of continuing education in December 2006. A major block of that training pertained to conducting Morrissey Hearings; procedures, rules of evidence, questioning witnesses, case law pertaining to Morrissey/Parole Revocation, and an analysis of that case law and how we should utilize it in a hearing.

The importance of ensuring that a ward has the ability to understand, and participate in the hearing is emphasized during training. Over and over again, the importance of a fair and impartial hearing is stressed to the fullest. I feel the training could, and likely should be longer, but the people providing the training could not be any more helpful or generous with their knowledge.

5. Do you receive guidance on the most effective strategies in dealing with wards, witnesses and attorneys when conducting a hearing? Do you believe the training has prepared you adequately for the job?

Due to the busy and hectic schedule of the Board, we are most likely not trained as often as we should be on the "most effective" strategies in dealing with wards and witnesses, and certainly our training is no match for that of their attorneys. I believe that the most important "strategy" in a hearing is fairness. I do not see the ward, his witnesses, or his attorney as an adversary. Hopefully, on some level, they also want what is best for the ward. Even if my first obligation is to the safety of the community, I always hope my decision is in the ward's best interest. Recently we were given training on some of the factors that make evidence inadmissible, due process, and the State's position on medical marijuana use while on parole. This was very good and useful training. I believe we could always benefit from more training, but being fair, careful, and mindful of the objectives of our decisions, are the most important factors to keep in mind while conducting a hearing.

6. How much of the training you have received focuses on research regarding the most effective intervention strategies for ward treatment programs?

There has not been a great deal of training on effective intervention strategies for ward treatment in the relatively short period of time I have been on the Board. There are major changes pending concerning facility treatment, and the goals of these changes have been discussed during the Commissioner's Monthly Meetings. In discussing the applied treatment with staff in the different facilities, I get the impression staff is anticipating major changes in treatment guidelines in the upcoming months. One of the benefits I am anticipating from the reorganization is that there will be more consistency in treatment between the different facilities. I feel this will benefit both the Board in judging treatment progress, as well as the wards in the event of facility transfers.

- 7. When you consider parole for a ward, are you trained regarding criteria for measuring preparedness for return to the community? How do you determine whether he or she is adequately rehabilitated? How do you assess the quality of programming the ward received?**

Commissioners are trained in this area. Our training teaches us where to look in the ward's file for documentation concerning his or her committing offense, criminal history, substance abuse issues, gang participation, mental health evaluations, in-custody behavior, as well as many other factors that give us some idea of who the ward is, what his or her treatment is, and how they have responded to that treatment. We have the benefit of very competent opinion from facility staff who have worked with the ward on a day to day basis. During the course of my training I have been assured of both the integrity and reliability of that counsel. This training, along with the life experience that each Board member brings to the hearing, is the criteria we use to assess a ward's parole readiness.

Organization

Under the law, effective January 1, 2007, all Board of Parole commissioners named to hear juvenile parole cases and their duties will be transferred to the jurisdiction of the Chief Deputy Secretary for Juvenile Justice.

- 8. As you prepare for this transfer, what is your understanding about to whom you are now responsible? Have you discussed what, if any, relationship the youth board will continue to have with the adult board?**

I believe we are prepared, and it is my understanding the transfer will have very little impact on the day to day function of the Board. From the information that has been provided to the Board members, we will, as of January 1, 2007, be under the authority of the DJJ, with the Chief Deputy Secretary, Bernard Warner, for the time being, as our direct coordinator. It is my understanding that, at some point, someone within the DJJ will be assigned to work as a liaison between the DJJ and the Board. As of the above date we will no longer be under the jurisdiction of the BPH, and other than BPH providing assistance in facilitating the transfer to DJJ, I know of no other relationship we will have with the adult Board.

Hearings

- 9. For parole consideration hearings or annual reviews, how do you balance the need to examine a ward's file prior to the hearing with the need to conduct eight or nine hearings scheduled in a single day? On average how long does it take to read the file before the start of a hearing?**

This is normally not a major issue. On my part, I always try and arrive at least an hour prior to the hearings to allow myself time to go over files. This time does not permit me to thoroughly go through all of the files, but it usually does give me time to highlight information in the hearing packets that the facilities have prepared and fully prepare the first case. I, along with my fellow Board members, then take as much time as is necessary to go through the ward's file to prepare for the hearing. The period of time it takes to prepare is different with each case, but I would estimate approximately 30 minutes on average. On some days it might require working through lunch, and forgoing any breaks, but we make every effort to meet our obligation, and provide a thorough hearing.

10. How do you balance the recommendations of a parole agent with your own reading of a ward's case for parole? What weight do you place on the advice of the staff who may be present at the hearing?

As a Commissioner, we are provided a "picture" of the ward in the relatively short period of time we spend with them; reviewing their treatment, their progress, and their ability to articulate their readiness for parole. A staff member who works with a ward, no doubt on many levels, knows them much better. Not to consider their advice/input when making decisions for parole, would not only be foolish, but unfair to both the community and the ward. On the other hand, the staff member and I have different obligations. We both want what is best for the ward, but I have a greater obligation to the community. My obligation to community safety means I sometimes have to motion that a ward remains in custody against the recommendation of facility staff. A decision can also result in an order to continue a ward on parole against the recommendation of the parole agent to revoke parole. This position requires that you utilize all of the training provided, all of the information available, then filter that through the experience that qualifies you for the Board, to arrive at a decision.

11. When you recommend that a ward be paroled to a particular treatment facility upon release, how familiar are you with the facility? Do you regularly visit outside treatment facilities, and how do you assess their quality?

I am somewhat familiar with some of the treatment facilities I recommend or Board-Order wards to. I have had the opportunity to visit some of them, not as many as I would like, but the hectic schedule of the Board makes that difficult. I really do not have the time or expertise to adequately assess their quality. I am certain some are excellent; but unfortunately, I am just as certain others are not as good. I know that the other Commissioners and I constantly question placement recommendations, but the lack of outside treatment/placement options does not allow us a lot of choice. I know we will continue to push this issue, I can only hope it is something that is addressed in the near future.

12. When you recommend that a ward be given a drug treatment program or be allowed to take college courses, do you or anyone at DJJ follow up? Does someone from DJJ tell you if your recommendation is followed?

The Board's recommendation is just that, a recommendation. It has been my experience that the facilities do make an effort to follow the recommendation of the Board, but as I stated previously concerning how I come to my decisions, the facility staff have to use their experience and expertise to make their decision. I do not follow up on these recommendations, but I certainly might ask staff at a parole hearing why a Board recommendation was not followed. I would generally say the staff usually provides a good explanation.

13. CSAS (Comprehensive Adult Student Assessment System) is a system that measures the functional skills in reading and mathematics for wards. As you review scores on this test to determine whether a ward needs an attorney how recently does the test need to have been given to be considered a valid indicator of competency?

A CASAS score is just one indicator as to whether a ward needs attorney representation. As Board members, we look at not only reading ability, but also retention, comprehension, mental health issues, maturity, language skills, and the general ability of the ward to represent himself or herself at the hearing. Per a memorandum that has gone out to the correction facilities, CASAS has become the major indicator within the facilities to determine whether or not a ward is provided an attorney.

I know this is a work in progress, as I have conducted hearings, for example, in which a ward was provided an attorney due to his CASAS score being under 215, although the ward had his high school diploma. I understand a CASAS test should be given to the wards every six months to be valid, and that passing the high school exit exams put those passing scores in place of the CASAS scores. I also understand these scores are a good indicator of a ward's competency, but by no means is the only indicator. It is my belief that if any errors are made in providing representation, the error should be on the side of caution, and an attorney appointed.

14. Do uniform criteria exist for parole readiness or appeals to time adds to ensure consistency in how wards are treated?

Uniform criteria for parole readiness would be very hard to establish, as each ward coming up for parole is unique in his or her treatment needs and goals. If substance abuse played a major role in committing a very serious offense, the ward's participation in a formal substance abuse treatment program would be very important to his or her parole readiness. If gang participation were an issue, then not only would in-custody treatment be a factor, but the neighborhood the ward was paroling to could have a significant impact on his or her parole success as well.

As for the time add appeals, again, it is a case by case approach. If the time add is the result of a disciplinary action, does the evidence support the ward's guilt, is the time add within established guidelines, and what is the benefit of a time add over another form of discipline? If it is a treatment and training time add appeal, it simply comes down to whether the ward needs the additional time to prepare for parole. Time adds should not be punitive in nature, they should be for treatment and stabilization of the ward's program.

Juvenile Justice Programming

15. Do you have the opportunity to observe program delivery at DJJ facilities? If so, how often does this happen?

I have had the opportunity to observe program delivery at almost all of the facilities in which I conduct hearings. The facilities are always very accommodating in allowing me into the treatment/living areas, and I have spoken to both staff and wards while making these visits. I wish I could say it happened frequently, but the truth is, it happens as time allows.

Time Adds

The Division of Juvenile Justice may add time to a ward's length of stay in an institution for disciplinary purposes. The Board of Parole considers disciplinary appeals. Christopher Baird, part of a team of national experts who reviewed the Division, earlier this year concluded that in 2005 male youth in Division facilities on a new commitment had an average of about 8.2 months of time adds. With an average length of stay on a new commitment of just over 36 months, time adds make up about 23 percent of the time young men stay in Division facilities.

16. What are your thoughts on the factors causing increases in the lengths of stay for DJJ wards and for increases projected for the near future? Should action be taken to address this issue? If so, what?

Time adds, and conversely, time cuts, are action based. Factors such as, program failure, disciplinary action, instability of program, all may lead to time adds. My hope is that action is being taken to address this issue. The more individualized program approach that is to soon go into effect, the smaller housing/treatment units and the higher staff to ward ratio, should result in more successful treatment, and hopefully, fewer time adds.

17. What has been your personal experience in reviewing ward disciplinary appeals? Can you provide examples of when and why you have overruled a time add decision by the division and, conversely, when you have upheld a time add decision by the division?

I have had quite a bit of experience reviewing disciplinary appeals. To be honest, the vast majority of DDMS appeals have no basis for appeal. Most of the time the ward admits to the action, but feels the sanction is unfair, even though it is within the table of sanctions, and has been administered as progressive discipline per policy. However, I have upheld the appeal, and dismissed the DDMS on several occasions.

For example, I heard an appeal at the Paso Robles Youth Correctional Facility (YCF) concerning a disciplinary for a controlled substance (marijuana) that was hidden in a Bible. The Bible was found on a shelf in a two-man room. The shelf was an assigned area for the ward that had been written up. When questioned, the ward stated the Bible was not his, the ward he shared the room with stated the Bible was not his. Later, the second ward had come forward saying that the Bible was, in fact, his. However, at the time of the write up, neither ward had been tested for drug use. It was my opinion, and the opinion of the other member of the panel, that there was not sufficient evidence to hold the ward responsible for the contraband. The PA III at the facility was informed that if both wards had been urine-tested, a positive THC test would have allowed a decision to uphold the DDMS based on preponderance of evidence.

Another example, again, at Paso Robles YCF, a ward was written up for being involved in the group assault of another ward. The ward admitted fighting with the ward; he also admitted other wards joined in the "fight." However, he claimed he should not have been given a level 3 "group assault," due to the fact it had just been a "fight" that others had decided to get involved in also. I explained to the ward that we had to make our decision on what had happened, not an explanation of what had happened. I told him by denying his appeal we were not saying he was not telling the truth, only that the preponderance of evidence did not support his claim.

18. Commissioners are responsible for an annual review where a ward's progress is examined. What are the benchmarks you look for in this process? What additional information would be helpful to make the assessment?

Commissioners do take part in the annual review process of in-custody wards, for the ward's first and last in-custody review. Even though the Board's participation, for the most part, is somewhat limited, it is a great opportunity to see the system in action on several levels. During the in-custody hearings, the Commissioners have the benefit of several factors; the ward is almost always present (they may waive out of the process, but they rarely do), there is someone from the facility that chairs the hearing, staff representing mental health and education are present, and a member of the ward's treatment team is there to present the ward's case.

Commissioners are primarily responsible for the annual review of wards that are on parole. The ward is very rarely present at this review, which is understandable due to the fact these reviews take place, for the most part, in the middle of the day. The case is usually presented by a supervising agent, not a field agent who has primary contact with the ward. The annual reviews the Commissioners write are based on information in the ward's file and a written report prepared by the ward's field parole agent. I would suggest that the supervising agents and the field agents spend the time necessary in preparing the agent presenting the case to answer questions that might come up during the annual review.

THE JOURNAL OF THE
ROYAL ANTHROPOLOGICAL INSTITUTE
LONDON
Vol. 10, Part 1, 1910
CONTENTS
PAGES
The Journal of the Royal Anthropological Institute, London, Vol. 10, Part 1, 1910, contains the following articles:

THE JOURNAL OF THE
ROYAL ANTHROPOLOGICAL INSTITUTE
LONDON
Vol. 10, Part 1, 1910
CONTENTS
PAGES
The Journal of the Royal Anthropological Institute, London, Vol. 10, Part 1, 1910, contains the following articles:

THE JOURNAL OF THE
ROYAL ANTHROPOLOGICAL INSTITUTE
LONDON
Vol. 10, Part 1, 1910
CONTENTS
PAGES
The Journal of the Royal Anthropological Institute, London, Vol. 10, Part 1, 1910, contains the following articles:

THE JOURNAL OF THE
ROYAL ANTHROPOLOGICAL INSTITUTE
LONDON
Vol. 10, Part 1, 1910
CONTENTS
PAGES
The Journal of the Royal Anthropological Institute, London, Vol. 10, Part 1, 1910, contains the following articles:



APPOINTEE

LINDA L. SHELTON

Commissioner, Board of Parole Hearings

APPOINTEE BACKGROUND

Appointed by Governor Schwarzenegger, effective March 27, 2006

Chief Probation Officer, Glenn County Probation Department 1999—2006

Shasta County Probation Department

Division Director, Juvenile Hall 1990—1999

Deputy Probation Officer 1984—1990

Faculty, Administration of Justice Department, Shasta College 1992—1998

Energy Coordinator, Shasta County Community Action Agency 1980—1984

Bachelor of Arts, Social Welfare, California Statue University, Chico

DISCUSSION OF ISSUES AND POTENTIAL QUESTIONS

1. POSITION BACKGROUND	2
2. SUITABILITY DECISIONS	3
3. RUTHERFORD CASE/HEARING BACKLOG.....	6
4. TRAINING	7
5. PREPARATION TIME	8
6. PSYCHOLOGICAL EVALUATIONS.....	9
7. BOARD OF PAROLE HEARINGS ROSTER	11

POSITION BACKGROUND

The Board of Parole Hearings (BPH) is responsible for protecting the public safety and determining the suitability for parole of certain felons sentenced to prison. The board's duties include:

- Considering the offender's suitability for parole and determining the length and conditions of parole.
- Exercising jurisdiction over inmates serving life terms under the Indeterminate Sentence Law, state prisoners serving specified terms of less than life, and those sentenced to life with the possibility of parole.
- Suspending or revoking parole of inmates who violated terms of their release, and rescinding or postponing parole dates.
- Conducting certification, placement, and parole revocation hearings for mentally disordered offenders, and conducting probable cause hearings for inmates or parolees in revoked status who meet the criteria for classification as sexually violent predators.
- Investigating and making recommendations for reprieves, pardons, and commutations of sentence to the governor, at the governor's request.

The board is comprised of 17 members appointed by the governor and subject to confirmation by Senate. Twelve consider adult matters and five hear juvenile cases. As of January 1, the juvenile side is under the jurisdiction of the Division of Juvenile Justice, pursuant to the July 2005 reorganization of Department of Corrections and Rehabilitation. There are three board vacancies, one on the adult side and two on the juvenile side. Commissioners are paid \$108,167 annually.

BPH adult side members conduct hearings to determine parole suitability for "lifers," inmates sentenced to indeterminate life sentences. Parole Board members are not involved in parole revocation hearings which are conducted by civil servants in the BPH known as deputy commissioners, who hear cases of parolees accused of violating the conditions of parole.

An inmate with an indeterminate life sentence receives an initial hearing 12-13 months before the inmate's minimum eligible parole date. Subsequent hearings occur between one and five-year intervals for murder convictions and between one and two-year intervals for non-murder convictions.

Lifer hearings are now conducted by one board member and one deputy commissioner. Hearings are not open to the public. Only the inmate, district attorney, victim or victim's next of kin, and inmate attorney typically attend. Occasionally press are allowed to attend cases that have received much publicity. Legislative staff observe occasionally.

At a hearing the commissioner and deputy make a determination of suitability. The full board makes the final determination on split decisions. If there is a finding of suitability in a murder conviction, the governor must review the decision and may reverse it. If there is a finding of suitability and the conviction is for a crime other than murder, the governor reviews the decision, but if he disagrees he can only refer the case back to the full board for review, typically citing specific reasons for his referral. The full board may at that point reaffirm their original grant of parole or vacate the decision and schedule a new (rescission) hearing for a two-person panel to consider the issues raised by the governor.

SUITABILITY DECISIONS

In 2006 the board with an increased number of members due to the reorganization scheduled 6,952 hearings for indeterminate life term inmates. This compares with 4,953 in 2005 and 4,552 in 2004. After the governor's review required by law, 57 inmates were released in 2005, seven of whom were court ordered releases. In 2006, 53 inmates were released and nine more had court ordered releases.

LIFE PRISONER HEARINGS <i>According to data provided by the Board of Parole Hearings</i>						
	2006	%	2005	%	2004	%
Scheduled (parole suitability hearings)	6,952		4,953		4,552	
Parole grants	240	3%	161	3%	214	5%
Parole denials	4,415	64%	3,117	63%	2,620	58%
Stipulations of unsuitability*	1,027	23%	716	23%	549	21%
Hearings postponed	2,235	32%	1,630	33%	1,682	37%
* BPH includes stipulations in its parole denials total.						

Both last year and the year before, board members approved grants of parole to 3% of lifers who came before them. Postponements were similar for both years (33% and 32%) and stipulations the same at 23%.

<u>Governor's Actions</u>	<u>2006</u>
Reviewed	206
Reversed	143
Modified	2
Approved	23
Returned for reconsideration	38

STIPULATIONS

A stipulation is used when an inmate voluntarily agrees to postpone his/her hearing on grounds of unsuitability for parole. By declaring himself unsuitable, an inmate takes himself out of consideration for one to five years because he believes he is not ready to be reviewed, or the board believes, usually due to a recent serious disciplinary action, that he is not ready. In 2006 there were 1,027 such stipulated cases, compared with 716 in 2005, an increase of 30%. When compiling statistics, BPH counts stipulations as denials.

MULTIYEAR DENIALS

Some inmate advocates have said that the issuance of multiyear denials for prisoners who had received only one-year denials in the past has been used by the board as a sub rosa tactic to draw down the backlog. Board officials have denied the assertion. Some commissioners say they issue multiyear

rejections because it is clear that some inmates cannot reasonably make themselves ready for parole in only one year.

The year-to-year change in multiyear denials of paroles was significant. The total included:

Denials	2004	%	2005	%	2006	%
One year	1,109	42%	1,179	38%	1,367	31%
Two years	861	33%	961	31%	1,449	33%
Three years	352	13%	488	15%	733	17%
Four years	222	9%	277	9%	501	11%
Five years	76	3%	212	7%	365	8%
Total	2,620	100%	3,117	100%	4,415	100%

Suitability Decisions

1. What is your criteria for issuing multiple-year denials, especially in cases where the inmate received a denial of only one year at his/her last suitability hearing and has continued to program successfully in the interim?
2. Should there be written criteria to assist you in evaluating the appropriate length of parole denial?
3. In examining the suitability of an inmate for parole, which factors do you give the greatest weight in reaching your decision?
4. How do you assess the quality of programming the individual has received?
5. To what extent are you familiar with the availability of self-help programs (such as alcohol and drug addiction) at the institutions where the parole applicant is incarcerated?

* * * * *

RUTHERFORD CASE/HEARING BACKLOG

In what is known as the *Rutherford* case, the judge, acting on a class action case that had been in litigation since 2004, ruled that the board was violating the law by failing to hold timely lifer hearings. By law inmates are entitled to have their suitability for parole considered at regularly scheduled hearings, but hearings are backlogged. The backlog consists of an accumulation of cases over several years that were supposed to be heard at regular intervals but were not. Therefore, a one-year denial can turn into a denial for a longer time period because BPH doesn't schedule the hearing at the one-year interval. The board responds that progress is being made at eliminating the surplus, chiefly because in recent months the board has been operating at near full strength. The court ordered that a plan of correction be filed. Acting on the case brought by the Prison Law Office, the judge ordered that the California Department of Corrections and Rehabilitation:

- Develop by September 2006 a policy to eliminate the backlog and ensure timely hearings in the future.
- Develop by May 2007 a statewide networked scheduling and tracking system for lifer hearings. Currently there is no centralized system. The administration recently asked for a delay until January 2008.
- Not issue multiyear denials to inmates who have formerly received one-year denials without significant change in circumstances clearly stated on the record. This provision was appealed by BPH and has been stayed.
- Not improperly encourage inmates to waive or postpone hearings or to stipulate to unsuitability.
- Ensure by May 2007 that board packets (material extracted from inmates central file used by board in its lifer hearings) are provided to inmates and their attorneys at least 60 days prior to scheduled lifer hearing.
- Ensure by May 2007 that attorneys are appointed to represent inmates at least 120 days prior to their lifer hearings.

Hearing Backlog

- 1. You have a difficult hearing schedule and cases have been backlogged for years. Do you have any suggestions that would improve your schedule but still address the backlog?**
- 2. In 2006 there were about 7,000 hearings scheduled but over 2,200 postponements. How can this record be improved? Some factors are out of your control but what should the BPH be doing to lower the number of postponed hearings?**
- 3. How can BPH and staff at each institution better coordinate their roles to avoid postponed hearings?**
- 4. It has been suggested that the increased use of multiyear denials is being used as a tool to make the backlog appear to be decreasing. What is your view?**

* * * * *

TRAINING

Title 15 of the California Code of Regulations governs the consideration of individuals for parole. When the courts overturn BPH cases, it is typically because the board ignored factors defined in Title 15. Board members are also trained to better understand Battered Woman Syndrome, now known as Intimate Partner Battering. When considering suitability for parole, the board is required to consider information or evidence that an inmate suffered from Intimate Partner Battering at the time of the commitment offense.

Training

- 1. Prior to conducting hearings in the field, how were you trained in the use of Title 15?**
- 2. How are you trained in case law as it pertains to parole hearings in California?**
- 3. What training did you receive regarding Intimate Partner Battering? Do you believe it is sufficient?**
- 4. Who reviews your cases or observes your conduct, especially in the early months of your service, to help you improve your skills and knowledge of processes?**

* * * * *

PREPARATION TIME

Board members are often assigned to a different institution each week. Hearings begin on Monday afternoon and continue through Friday morning. Several years ago the Legislature mandated that the board work on Fridays, which were previously scheduled as travel days, because of the increase in backlogged cases.

Board members receive a packet of information excerpted from the inmate's central file. Inmates incarcerated for 20 or more years frequently have files that take up several 12x14 cardboard boxes, typically the manner in which inmate files are stored. There is no electronic file storage; all files are maintained by hand.

A frequent complaint about hearings through the years is that board members and deputies were not familiar with the file material because they did not receive it until the day they arrived at the institution. At the urging of the Rules Committee, board packets are now sent to board members in advance so they can prepare prior to the hearing date.

Preparation Time

1. When do you receive board packets for a typical week of hearings?
2. Do you believe you have sufficient time to prepare?
3. Do you have any suggestions for improving this process?

* * * * *

PSYCHOLOGICAL EVALUATIONS

Every lifer receives a psychological evaluation from a Department or Corrections psychologist that typically includes an assessment of risk or danger to the community. Often a positive psychological evaluation is the only evidence from a third party (the prison clinician) that an inmate can present to support his/her case for parole. Many mental health experts agree that the current instrument is an inadequate indicator. The shortcoming is compounded by the fact that assessment instruments vary from prison to prison.

BPH is in the process of hiring its own psychologists to conduct more uniform evaluations and employ uniform risk assessments.

The age of the psychological evaluation, or how recently it was conducted, also remains an issue. There is no board policy on how current a psychological evaluation should be.

Psychological Evaluations

- 1. How valuable do you consider the inmate's psychological evaluation in reaching a decision on suitability for parole?**
- 2. How current should a psychological evaluation be to be used appropriately at a lifer hearing? How old is too old? What is board policy, or is this decision up to each board member?**

* * * * *

Prepared by Senate Rules

BOARD OF PAROLE HEARINGS

Name	Gender	Term Ends
Archie "Joe" Biggers (adult)	M	7-1-08
Sandra Bryson (adult)	F	7-1-07
Paul Chabot (juvenile)	M	7-1-07
Joseph Compton (juvenile)	M	7-1-07
James Davis (adult)	M	7-1-08
Janice Eng (adult)	F	7-1-07
Jack Garner (adult)	M	7-1-08
Philip Inglee (adult)	M	7-1-07
Alvin Kubochi (adult)	M	7-1-07
Edward Martinez (adult)	M	7-1-07
Susan Melanson (juvenile)	F	7-1-08
Cathleen Poncabare (adult)	F	7-1-08
Linda Shelton (adult)	F	7-1-07
Edward Williams (adult)	M	7-1-08
3 Vacancies (1 adult & 2 juvenile)		

DEC 28 2006

Board of Parole Hearings
State of California
Run Date: December 26, 2006

Senate Rules Committee

Appointments

PAROLE CONSIDERATION HEARING INFORMATION
BY COMMISSIONERS AND MONTH
FOR YEAR 2006 FROM JANUARY TO NOVEMBER 2006

YEAR^	ID#034	ID#045	ID#046	ID#048	ID#049	ID#050	ID#051	ID#052	ID#053	ID#054	ID#056	ID#057	ID#058	ID#059	ID#060	ID#061	ID#062	ID#063	ID#999
TOTAL	E.Wms	Perez	Fisher	S.Lee	Inglee	Farmer	Sawyer	St.Julie	Garner	Bryson	Biggers	Davis	Shelton	Porter	H-Ritte	Martinez	J.Eng	Melans	CDC*
Jan-Nov																			
Hearings	320	96	361	170	451	258	260	240	618	607	474	483	378	178	208	181	43	38	150
Grants	19	6	9	4	14	16	18	11	33	34	18	12	13	3	12	6	0	0	0
Deny	246	86	307	117	382	180	197	191	436	460	375	376	300	155	133	132	32	25	0
1yr	88	32	54	58	139	64	77	51	166	80	129	127	75	41	41	35	7	9	0
2yrs	70	39	103	33	120	52	71	75	151	150	133	120	90	47	40	49	17	10	0
3yrs	42	6	61	11	61	38	40	35	58	74	64	62	72	23	18	24	4	2	0
4yrs	26	5	56	15	42	26	5	24	35	66	33	36	35	27	22	21	2	4	0
5yrs	20	4	33	0	20	35	4	6	26	90	16	31	28	17	12	3	2	0	0
Stips	51	23	112	35	107	42	65	28	80	95	84	73	62	36	35	14	5	6	0
Postpone	54	3	45	43	52	26	44	34	141	109	76	90	64	20	59	39	11	13	150
I/Att	25	2	28	37	30	11	30	16	74	48	36	52	34	13	27	18	3	5	146
BPT	29	1	17	6	22	15	14	18	67	61	40	38	30	7	32	21	8	8	4
CDC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

* ID# 999 - CDC only has approval authority on Postponement cases

PAROLE CONSIDERATION HEARING INFORMATION
BY COMMISSIONERS AND MONTH
FOR CALENDAR YEAR 2006

Dec

MONTH	ID#034	ID#049	ID#053	ID#054	ID#056	ID#057	ID#058	ID#060	ID#061	ID#062	ID#063	ID#999
December	E. Wms	Inglee	Garner	Bryson	Biggers	Davis	Shelton	H-Ritter	Martinez	J. Eng	Poncabare	CDC*
Hearings	48	35	39	46	39	36	40	36	43	41	40	16
Grants	6	1	1	3	0	1	1	1	0	1	0	0
Deny	34	22	19	26	32	30	23	30	31	24	23	0
1yr	12	12	8	5	8	12	7	11	13	5	11	0
2yrs	11	7	8	8	14	9	8	6	6	8	8	0
3yrs	8	3	2	6	5	7	1	8	5	6	1	0
4yrs	2	0	1	2	4	1	3	3	3	4	2	0
5yrs	1	0	0	5	1	1	4	2	4	1	1	0
Stips	10	8	3	4	13	9	7	11	9	4	5	0
Postpone	8	11	19	16	7	5	16	5	11	16	17	16
I/Att	6	2	5	5	6	2	5	2	6	5	7	15
BPT	2	9	14	11	1	3	11	3	5	11	10	1
CDC	0	0	0	0	0	0	0	0	0	0	0	0

* ID# 999 - CDC only has approval authority on Postponement cases

PAROLE CONSIDERATION HEARING INFORMATION
BY TOTAL HEARINGS, GRANTS, DENIALS, STIPS AND POSTPONEMENTS
FOR CALENDAR YEARS 1998 TO 2006

YEAR	1998	1999	2000	2001	2002	2003	2004	2005	2006
TOTAL HRGS	2,191	1,953	2,179	3,648	4,826	4,499	4,552	4,953	6,952
Grants	27	21	52	84	168	168	214	161	240
Total Denials	2,047	1,827	1,873	3,101	3,746	2,957	2,620	3,117	4,415
1yr	578	548	622	1,073	1,342	1,384	1,109	1,179	1,367
2yrs	737	675	631	967	1,182	869	861	961	1,449
3yrs	426	319	377	579	695	443	352	488	733
4yrs	216	186	194	321	330	177	222	277	501
5yrs	90	99	49	161	197	84	76	212	365
Stips	58	62	246	558	762	776	549	716	1,027
Postponements	8	56	241	440	877	1,335	1,682	1,630	2,235

JAN 25 2007

Appointments

Statement of Goals

1. *What are your goals and objectives as a member of the Board of Parole Hearings? What do you hope to accomplish during your tenure?*

Primarily, I wish to hold fair, compassionate, and thorough hearings that meet the civil rights of each inmate, that address the needs of victims' families, and that fully encompass public safety. I strive to achieve a delicate balancing act that promotes all of the above, as well as, making each hearing a personalized and individualized effort whereby the inmate knows exactly what is expected of him or her.

Secondarily, I want to strive for consistency and credibility among all Commissioners. It is imperative that training is thorough, meaningful, and consistent involving not only Commissioners but also Deputy Commissioners. We need to operate as a Commission in practice and in theory, not each going our own way. I want to help bring back the respect to the Commission necessary to achieve valuable standards and working regulations and, perhaps most importantly, a process that makes sense to observers as well as to participants.

I believe ours is a cumbersome process that promotes delays and defeats our purpose. I would like to be involved in helping to develop a streamlined process by assessing and evaluating each step of that process, being prepared to let go of the inefficiencies and fine tuning what works. We have a "can do" Board of Commissioners currently who are already involved in developing consistent formatting of hearings, development and use of hearing forms, assessment of effective practices, and other issues, such as scheduling. The time is right for comprehensive evaluation and forward thinking.

Training

2. *Please describe the training and any other assistance you received in preparation for your assignment as a commissioner, including knowledge of the requirements of the Penal Code, Title 15, and case law as they apply to the parole process. Please also detail any additional training or refresher courses you have participated in.*

I received over eighty (80) hours of comprehensive, multi-faceted training. This training included a variety of trainers specializing in their individual fields, i.e. case law, investigations, Title 15, hearing processes, victim-witness issues and concerns, battered women/partners syndrome, responsibilities of defense and district attorneys, institutional differences and similarities, inmate rights, current lawsuits against the Department and solutions, use of matrix when granting a date, who to go to with questions, legal and otherwise, as well as, a variety of other subjects.

During my initial training I also met with both defense and district attorneys who shared their concerns and desires with regard to hearings. I participated in mock hearings and observed actual hearings at different institutions. I was well versed in forms and other paperwork, as well as, the ups and downs of the travel involved, the inconsistencies from institution to institution, and how to review Board files to find the information I needed for sound decision-making.

We are provided training every Board Week (once a month) on subjects we have requested as a Commission. Most recently, we received a week of training as a Commission that included lawsuit updates, new regulations, the new Title 15 booklet, form and matrix review, public noticing, the administrative review process, as well as that of the Governor and his staff, not to mention required training in driver safety, harassment and hostile work environment.

As a Commission, we have voiced strong concerns regarding training, i.e. that it be comprehensive, thorough, pertinent subject matter that addresses our group and individual needs. Strong and consistent training provides the best foundation for strong and consistent hearings which in turn promotes public safety and fairness for all involved.

3. *Did anyone review your cases, particularly in your early months on the job, to help you determine best procedure? Does anyone observe your hearings to assist you?*

I am sure my files were reviewed in that I would receive feedback when I made errors, especially when calculating time for dates given. Mostly, we've discussed hearing quality and consistency as a group. Conducting a hearing involves coupling policy and procedures with finding one's own comfort zone and matching that with your partner, the Deputy Commissioner. When I ask for feedback, and I ask frequently, I get it. I was purposefully assigned strong, competent, well-respected Deputy Commissioners when I first started. These people were able to guide and direct my approach and hearing process. As well, the attorneys involved from both sides of the question were never shy about answering my questions and giving me suggestions for improvement from their perspective.

I would have difficulty with someone observing me to assist me unless that person had been a Commissioner with some longevity. My best training has come by way of doing a hearing with the support of knowledgeable and experienced Deputy Commissioners and the feedback I get from all the other hearing participants. I've had many observers for the purposes of being educated and/or trained since.

Self Help, Vocational and Education Programs for inmates

Self help and education are typically recommended when an inmate is denied parole. The extent to which an inmate has participated in self help programs is regularly a subject of discussion in the inmate's parole suitability hearing. However, self help, education and vocational training availability varies widely.

4. *To what extent are you informed of the availability of self help groups and vocational programs at the institution where the parole applicant is incarcerated?*

It is virtually impossible to maintain any kind of a list of groups and programs at each institution to disseminate to Commissioners in that they can change on a daily basis. It appears the programs often open or close based on instructor choice, not on any well thought out educational or programming plan. I often hear from the inmates that a certain program doesn't exist anymore because the instructor "left".

I keep abreast of what is available at each institution by asking the correctional officers who assist during hearings. For the most part, they are very knowledgeable about the types of self help, vocations, training, and education available at their institution. They are also aware of quarantines, lock downs, riots, and anything else having a bearing on what and how the inmate can access information and programs.

5. *If a prisoner requires additional self-help work but such a program is unavailable, what alternatives do you recommend, if any?*

I offer a couple of alternatives to inmates who need specific self help, vocational, or educational programming when it is not available at their institution of incarceration. First, I suggest cell study which involves the inmate checking books out from the library, reading them, and completing a "book report" that includes the name and author of the book and writing about what they learned that most pertained to them. I also suggest they participate in correspondence courses if they have the means to do so. Based on the inmate's classification level, ability, and need, I will suggest they be considered for a transfer to a different institution, especially if a vocation is the subject in question.

Oftentimes, I hear that the waiting lists are prohibitive, not that the program doesn't exist. I will suggest that staff expedite an inmate's participation so that he/she may comply with the Board's directives. I will also make suggestions as to what types of programs an institution might consider as the administration considers any changes in its rehabilitation format.

6. *Have you ever observed any specific self help, vocational, or education program activity at a CDCR institution? If so, which ones?*

Unfortunately, I have not been able to directly observe any activities at the institutions--my days are completely filled with hearings. I have been able to meet with a few staff who run some of the programs, as well as, some of the psychologists who complete the inmate evaluations. For example, the gentleman who runs the Victim Offender Reconciliation Group at CSP-Solano came to the Hearing Room and gave us a presentation of his program. It is one of the most popular and desirable programs at the institution. Unfortunately, it has a waiting list of over fifty (50) inmates, all lifers. There is no limitation as to how long one may participate, so once involved, no one wants to leave thereby not allowing much turnover. I would suggest inmates participate for two years and then go to the bottom of the waiting list so that more are allowed to participate.

Hearing Preparation

Some members of your board have a difficult travel schedule and all of you visit different institutions on a weekly basis. Inmate files are not available electronically.

7. *Please describe when and how you prepare for a hearing, including the average amount of preparation time spent on each case. Precisely when are files made available to you for the following week's hearings?*

I briefly review all files for the week prior to leaving my home, usually Sunday. If I travel on a Sunday, I do this review on Monday morning. This brief review consists of checking for current Board reports and psychological evaluations, as well as, reviewing recent disciplinary actions, if any. I check if and when I will have victims' families attending so that I am prepared to contact them if there is a possibility of a postponement or stipulation. The first thing I check for at the institution when I get there is for any updated information if I am missing it in my files.

Once I do my brief review, I thoroughly review Monday's hearing files (2). Monday night I review Tuesday's morning hearings and early Tuesday morning I review the afternoon files and so on for the rest of the week. I spend an average of 45 to 60 minutes per file and then follow up with further review of additional materials that may be at the institution, i.e. new psych report, letter of support, etc.

I spend anywhere from six to fifteen hours a week in travel time and approximately fifteen to twenty hours a week in preparation time. I spend on the average of ten hours a day at the institution doing hearings. My work week averages seventy to eighty hours.

Commissioners prepare every file for every hearing so we are not supportive of postponements unless they are essential to an inmate's civil rights, i.e. no psych report, medical issues, attorney not available.

I receive my files about ten days prior to my hearings, usually on a Thursday. I check the boxes when I get home for accuracy of files, times of hearings, etc.

Parole Suitability Hearings

Some inmate attorneys complain that their clients are denied parole suitability for two or more years without adequate or proper justification. They say multi-year denials are made even though the inmate has been a model prisoner and programmed excellently since the last hearing when he/she received only a one-year denial.

8. *What criteria do you use for issuing a one-year denial vs. a multi-year denial? Are there written criteria for the length of denial to guide you? How were you trained regarding this matter?*

I take into consideration the inmate as a whole, i.e. his social history, prior record, commitment offense, institutional behavior, psychological evaluations, and parole plans, not just the behavior and programming since the last hearing. It's important for me to determine his/her stability and consistency in attitude, issues with regard to insight and remorse, as well as overall risk of dangerousness to the community. I ask myself how long will it realistically take for this inmate to accomplish what he/she is being asked to do. Due to different policies of the prior Administration, in many cases, the inmate has received a series of one year denials when, in fact, multi-year denials would have better allowed the time necessary for the inmate to achieve readiness for parole. In such manner, the inmate does not get a false impression of how close to suitability he/she may be. Additionally, causing victims' families to attend hearings year after year when suitability is not warranted is an extremely painful process for them.

I am not aware of any written criteria for the length of denial. No matter how objective we make the parole hearing process, it is still subjective based on the fact that each Commissioner brings their own experiences, feelings, and make-up to the table. The training I received indicated that multi-year denials required multiple reasons for that denial. I am very specific with my reasons when giving a denial to an inmate. I want that inmate to know what is expected and how he/she can achieve those objectives. I then match realistic time frames to those objectives, i.e. the length of denial.

9. *What should the Legislature expect from board members regarding a consistent format for lifer hearings? What should the appropriate emphasis be on the facts of the crime? Are you able to familiarize yourself with the reasons why previous panels denied suitability?*

The Board, as a group, is currently reviewing the scripts we have received to make sure we are being as consistent as possible. We communicate with each other frequently to share ideas, ask questions, discuss problems we may encounter, and acknowledge individual institutional constraints that surface. We receive legal counsel and are updated regularly on lawsuit requirements. This Board is committed to accountability through consistency which in turn promotes credibility.

The facts of the crime are but one part of an entire review process. Some inmates come to prison as teenagers when their brains have not fully developed while others commit their crimes late in life. Each case has to be treated individually and includes a serious assessment and review of the life offense. Since some offenses are so horribly egregious, they obviously demand far greater emphasis than any other component of the hearing process.

Previous parole denial information is available at the prison at the time of the Hearing. The most recent decision is always in the Board packet that I receive in advance. I always review previous decisions to see if the inmate has followed the recommendations that were made and to assess if they are still realistic based on the inmate's personal situation and what is available at the institution.

Psychological Evaluation

10. *What is your view of how an inmate's psychological evaluation should be used in a lifer hearing? If it is to be an assessment tool, how current should it be? How old is too old?*

A psychological evaluation is but one tool to be used during a parole hearing. Unfortunately, there is little consistency in these evaluations which does not lend to their credibility. I am looking forward to the new process being developed which includes a risk assessment tool and does away with conflicts of interest, i.e. psychologists trying to do evaluations and treatment at the same time. The risk of dangerousness will be objectively determined and consistently evaluated statewide. When an evaluation concludes the inmate is a low risk and that inmate is a discipline problem, more weight should be given to the discipline issues of the inmate.

Currently, due to the inconsistency and lack of certified risk assessments, I feel most comfortable with psychological evaluations that are no more than two years old. Much can happen to an inmate in a two to three year timeframe especially if he/she is

getting closer to receiving a parole date. This "comfort level" may change when our new process comes into play.

So often inmates complain they are only seen for fifteen or twenty minutes and the rest of the evaluation is based upon a paper review. Sometimes that paper review is based on inadequate or inaccurate documentation thus potentially perpetuating faulty assumptions. Again, our new process should circumvent these types of reviews.

11. When is it appropriate to grant a postponement because a psychological evaluation is not current? Is it your responsibility or the inmate's attorney to request postponement of the hearing?

I will consider granting a request for postponement when the inmate's attorney indicates that the evaluation was used in a prior hearing and was negative to the inmate in its assessment. I will grant and/or postpone if the psychological evaluation is more than two years old and the inmate has the potential to receive a date at the next scheduled hearing. I will grant and/or postpone evaluations that are over three years old depending upon the individualized situation. I will postpone a hearing if the previous Panel requested an evaluation be completed and it wasn't.

I believe it is both the defense attorney's and my responsibility to address evaluation issues. If I cannot use the existing evaluation for any reason, I need to request a postponement. The defense attorney has the responsibility to put his client in the best light with as much positive information as possible. In my hearings, the defense attorney is most likely to ask for the postponement based on content first, and then age second.

12. When are you able to examine a file to know if the psychological evaluation has been conducted? Do you believe the failure to know that the psychological evaluation is not current and available in the file is the cause of hearing postponements?

When I make my initial review of the file I note the date the psychological evaluation was completed. Since I get my files early, updated materials are awaiting my arrival at the institution. I get to the institution at least an hour early on Mondays so that I can look for updated materials, reconcile my files, and make note of potential postponements, especially when victims' families are scheduled to appear. Most defense attorneys have a general idea of what their clients need or want and should or shouldn't do. We review potential postponements and/or stipulations based on all the information at hand.

Psychological evaluations that are old or not completed in a timely fashion contribute to postponements. Institutions in lock-down or on quarantine contribute to postponements, as do inmate medical issues, private attorneys not available, lack of updated Board reports, and a variety of other issues that are beyond our control.

Hearing Postponements

Costly postponements of lifer hearings result from logistical problems at the prison or CDCR's failure to appropriately prepare the information packet available to board members.

13. *How might problems and unnecessary postponements be reduced? How might adult custody personnel and the board better coordinate activities? Who do you believe is ultimately responsible?*

The two most common reasons for postponements include late Board reports and psychological evaluations that are old or not completed. I would suggest that at the time of packet preparation, those two areas be checked and the institution (Board desk) be contacted about any pending updates. If none are to be available, it makes more sense to me to schedule other inmates, whose files are complete, in those spots and move the incomplete files to a later date. As well, when an attorney hasn't been able to see his/her client for whatever reason, the attorney should notify the Board desk at that institution so that inmate can be moved to another hearing time and date and the vacant spot can be filled, rather than postpone the week of the hearings.

Even though I don't get updated information until I get to the institution, the Board Desk at each institution should keep BPH's scheduling unit abreast of all changes, lack of updated materials, institutional constraints, and any other information that may be cause for hearing postponement. Joint training might be appropriate so that the key players are aware of who is responsible for doing the myriad of tasks necessary to move a hearing forward. This training might help dispel the "I don't work for you" attitude that comes from lack of understanding of the process involved.

Ultimate responsibility should fall on the shoulders of the Parole Board Commissioners to help assess just what are the problems and issues needing to be addressed, who are the key players, and how can things be fixed. The Parole Board is a policy making board but with us all doing sixteen hearings a week, time is a luxury we don't have. In the long run, it may save time and money to put our collective heads to these types of problems and do a few less hearings a week. We know the problems and we want to be responsible for finding solutions.

555-R

Additional copies of this publication may be purchased for \$6.25 per copy
(includes shipping and handling) **plus current California sales tax.**

Senate Publications & Flags
1020 N Street, Room B-53
Sacramento, CA 95814
(916) 651-1538

Make checks or money orders payable to **SENATE RULES COMMITTEE.**
Credit cards not accepted.

Please include stock number 555-R when ordering.



